

608

FEDERAL STATISTICAL PROGRAMS

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
PRIORITIES AND ECONOMY IN GOVERNMENT
OF THE
JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES
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JUNE 13 AND 14, 1973

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FEDERAL STATISTICAL PROGRAMS

WEDNESDAY, JUNE 13, 1973

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON PRIORITIES AND
ECONOMY IN GOVERNMENT OF THE
JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room S-407, the Capitol Building, Hon. William Proxmire (chairman of the subcommittee) presiding.

Present: Senator Proxmire and Representative Conable.

Also present: Loughlin F. McHugh, senior economist; William A. Cox and Courtenay M. Slater, professional staff members, Leslie J. Bander, minority economist; George D. Krumbhaar, Jr., minority counsel; and Walter B. Laessig, minority counsel.

OPENING STATEMENT OF CHAIRMAN PROXMIRE

Chairman PROXMIRE. We are beginning today a series of hearings on the Federal statistical programs. The last major study made by the Joint Economic Committee was over 7 years ago when the Subcommittee on Economic Statistics, of which I was then chairman, undertook the preparation of a compendium of papers written by outstanding experts in the field. This was followed by 4 days of hearings looking into the possibilities of a truly integrated system providing genuinely comparable statistics consistent with and meshed into an overall system of economic statistics including Federal, State, and local governments.

In these first 2 days we shall stress overall organizational and administrative aspects. The Bureau of the Census, which is the heart of the Federal statistical program, was recently shifted into a new organizational structure, the Social and Economic Statistics Administration (SESA), which also includes the Bureau of Economic Analysis (BEA), a relatively small organization, but one which is of critical significance in measuring and evaluating current economic developments. We want to know what this new organization has been doing to improve the flow of economic information. What are the advantages and disadvantages? Is there a likelihood that the highly analytical BEA will be swallowed up by the Census Bureau?

More generally, this committee has been concerned that the production and dissemination of economic information may be tainted by political pressures. This concern was heightened over 2 years ago when the regular monthly press conferences held by the Bureau of Labor Statistics were abruptly discontinued. These monthly briefings

were conducted by professional civil servants explaining to the press and public what was happening in labor markets. At the last briefing, the technical expert disagreed with the Secretary of Labor who was issuing a highly optimistic and misleading report on the unemployment situation. The coincidence of this development and the demotion of the expert involved led us and the press to suspect an attempt by political appointees to color economic information to their political gain.

Once more recent developments give rise to new fears. In particular, I refer to the nomination of Vincent Barabba to head the Census Bureau and the appointment of Edward Failor as head of SESA. Neither of these men has the professional background we consider to be necessary. They were both active in the President's last election campaign. They are without any extensive professional Government experience.

The appointments were made in the face of protest by responsible spokesmen for professional economic and statistical organizations. Two of these gentlemen are with us today—Mr. Duncan, representing the American Statistical Association and the Federal Statistical Users Conference, and Mr. Killingsworth who chaired a committee of the Industrial Relations Research Association. Our third panelist, Mr. Ruggles, is well known to this committee for several reasons, not the least of which is that he is lucky enough to be the husband of Nancy Ruggles. Indeed, Mr. Ruggles, I recall you testified at our 1967 hearings looking into the Federal statistical programs.

I know all three of you are deeply concerned for the integrity of Government economic information programs. We look forward to hearing from you today.

Representative CONABLE. Mr. Chairman, I would like to welcome the witnesses today. I realize we will have a somewhat different story tomorrow, and that tomorrow is probably time for considerable probing of the motivations back of any changes that have occurred.

I would like to say that I sometimes think we are very conservative in Government and have a tendency to cry out every time there is a change of any sort. I can recall this committee having been critical of the personnel that served earlier in many of these roles for their subservience or their political orientation as well. So I think we can't assume that change automatically means downgrading of the process.

I personally would like to get some evidence at some point that the Government is reviewing and challenging the statistical input that is made available to us. I have the feeling that statistics, as it is viewed by the Government, is altogether too static an exercise, that we have a rapidly changing society and that the content of our statistics should be constantly tested and subject to revision to an extent that still permits, of course, some comparative study so we know where we are headed.

This is a major concern of mine in the statistical field largely because I do have the impression that once we establish a procedure, it tends to go on regardless of the facts and frequently without adding the additional factors that can make statistical study more illuminating than it otherwise would be.

I guess what I am saying is that we shouldn't assume that change automatically is a deterioration. It can be a deterioration. It can also be an improvement, and in that spirit I hope we will look at any changes either in personnel or in policy in a light that will permit us to understand exactly what is happening rather than creating any inferences that it automatically is the result of political intrusion into a scientific field.

Chairman PROXMIRE. Before I call on you gentlemen, I would like to thank Congressman Conable for that statement. I think it is a very welcome statement, a good balance to what I said. I would like to support everything he says. There is a tendency for us to be too static and too conservative about our statistics and fail to recognize in a changing world, changing economy, with almost an exploding technology, that it is necessary for us to change our policies, to change our statistical coverage, and obviously to change the personnel, too, and I want once again to emphasize that I certainly welcome changes. What I tried to stress in my opening statement is that we should have people in positions of authority and responsibility that are as well qualified as possible.

Representative CONABLE. I don't disagree with that.

Chairman PROXMIRE. I think the President made some fine appointments in other areas. Just the other day before the Banking Committee there were seven nominees for offices and every one was a top grade official who had solid experience and was professionally qualified without any question. It is that kind of thing I welcome, although I concede there are times when you need people who are perhaps broader-gaged.

Representative CONABLE. I think it is tremendously important that we test change as well as statistical content in this field because this is the yardstick with which we measure so much and I think it entirely appropriate for this subcommittee to look into the changing scene here to be sure we understand where we are headed and to give, if possible, a greater understanding of the weight to be given to Government statistics in all the various measurements that are going to be made over the next 3½ years.

Chairman PROXMIRE. Just one other point. We are all aware now of the universal concern about inflation and, of course, we measure inflation on the basis of Government statistics of all kinds. As those statistics come out, they can have a profound economic, political, social effect, very profound. It is of the greatest importance that these statistics be accurate, reliable. In addition to that, I am confident—I don't know if you gentlemen share my complete confidence that these have been accurate and reliable—that there be no color, no beginning question or doubt in the public's mind that these figures are completely accurate. I want to get into that in the course of questioning.

Well, can we start off, then, with Mr. Duncan and then we will proceed right across the line. We would appreciate it, gentlemen, now that we have taken so much time, if you would abbreviate your prepared statements as much as you can, perhaps 10 minutes if possible each, and whatever you cannot cover, your prepared statements will be printed in full in the record and then we can proceed to the colloquy.

**STATEMENT OF JOSEPH W. DUNCAN, CHAIRMAN, JOINT AMERICAN
STATISTICAL ASSOCIATION-FEDERAL STATISTICS USERS' CON-
FERENCE COMMITTEE**

Mr. DUNCAN. Thank you.

Gentlemen, I am honored to appear on this panel of users of Federal statistics as a result of my capacity as chairman of a joint committee appointed by the American Statistical Association and the Federal Statistics Users' Conference. Our committee prepared a report¹ entitled "Maintaining the Professional Integrity of Federal Statistics," which was published in the April 1973 issue of the American Statistician, a publication of the American Statistical Association. However, I should emphasize that the committee's report had its origin in late 1971 when the Federal Statistics Users' Conference Board of Trustees appointed a subcommittee to obtain further details and information concerning the personnel reassignments and reorganization of Federal statistical agencies. In early 1972, the president of the American Statistical Association, William H. Shaw, was authorized by the ASA Board of Directors to appoint representatives of that association to a joint ASA-FSUC Committee on the Integrity of Federal Statistics.

The joint committee was one of several activities reflecting public concern about the extension of political control over professional statistical agencies. One example of the public concern was the set of hearings conducted by the Joint Economic Committee following the Bureau of Labor Statistics cancellation of press conferences concerning unemployment and employment data (the cancellation occurred on March 19, 1971).

Further, the Subcommittee on Census and Statistics of the House Committee on Post Office and Civil Service issued a report on October 5, 1972, entitled "Investigation of Possible Politicization of the Federal Statistical Programs"—a report which concluded that there was no evidence to support the charge of politicization. It is important to note that the joint AS-AFSUC committee specifically decided not to focus on specific charges or allegations since other reports, some of which you'll hear about today, have covered this ground and, importantly, since it is clearly difficult to prove misuse of political power in such specific instances—a point which was basically the reason underlined by the report of the House Subcommittee on Census. Rather, the ASA-FSUC committee attempted to establish basic principles which, if followed, would help allay fears of political influence in the Federal statistical system, a thrust which I think is totally consistent with your introductory remarks today.

The committee believes that the Federal statistical system must include several basic ingredients:

(1) The statistics themselves must be accurate, consistent and timely.

(2) The public must have confidence in the statistics which are generated and in the professional ability of the people who produce them.

(3) Statistical programs must be continually revised and improved to reflect new characteristics of the subjects being measured and to

¹ See report, beginning on p. 6.

embrace new subjects as national priorities change, also in line with the introductory comments which both of you gentlemen made.

(4) Technical measures of reliability and sensitivity should be available to define the uncertainties and limitations associated with specific series.

These principles are discussed at length in our report¹ which I am including in the record of this proceeding today, but rather than go into all of those, I would like to highlight the second criterion relating to public confidence in the Federal statistical system.

In the committee's judgment, a key factor in assuring public confidence in the Federal statistical system is the professional statisticians' evaluation of the quality of the effort by such agencies. Hence, the committee made several recommendations to assure that professional or peer group confidence was maintained. Our recommendations in this area included:

(1) Heads of statistical agencies should be career professionals of demonstrated competence and who are free of political influence.

(2) The heads of major statistical agencies should have direct control of such functions as appointments of personnel, budget priority setting, program planning, and publications within those statistical agencies.

(3) The release of data should stress the professional statistical production agency as the source rather than simply say this data was produced by the Department of Commerce, for example.

(4) Guidelines should be established to guarantee the selection and rotation of memberships on technical advisory committees without regard for political affiliation and with a number of specific appointments from appropriate professional organizations.

In addition to these specific recommendations which are focused on the difficult problem of determining specifically those ingredients which will assure public confidence in the statistical system, the committee feels that it is essential that the public understand and appreciate the accuracy of basic statistics. If this is not done, the value and usefulness of accurate statistics will be seriously undermined.

When the professional statisticians, biologists, physical and social scientists, et cetera, who utilize the data have confidence in the statistical system and in the accuracy of the data, it is more likely that the general public would accept this professional judgment as the basis for placing their confidence in the resulting statistics. Therefore, professional ability of all agency staff members involved in the collection, compilation, and analysis of Federal statistics is crucial to the development and maintenance of strong peer group confidence in the system. As a suggestion to aid in this particular area, the committee provided recommendations concerning specific qualities to be identified for screening potential appointees to head major Federal statistical agencies including the Bureau of Census, the Administrator of the Social and Economic Statistics Administration (SESA) and the Commissioner of Labor Statistics. The committee's specific suggestions were that, as minimum, the candidates should meet most of the following characteristics:

(1) Membership in a professional statistical association for at least 5 years.

¹ See report, beginning on p. 6.

(2) Ability to make new contributions to knowledge in the field of statistics or subject areas of the agency involved, as demonstrated, for example, by professional publications.

(3) National recognition in the professional field.

(4) Demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher positions in a Federal statistical organization, or working in a responsible statistical position in private industry, education, nonprofit organizations or labor.

In conclusion, I would note that our report includes a basic statement on the need for public confidence in Federal statistics. We have included an appendix which reviews illustrative uses of statistics in government, business, labor, and universities to underscore the importance of this. Our report notes: "Nothing could undermine the politician and implementation of his policy recommendations as much as an accumulated and intense public distrust in the statistical base for the decisions which the policymaker must inevitably make, or in the figures by which the results of these decisions are measured. Unless definite action is taken to maintain public confidence in Federal statistics and in the system responsible for their production, there will be growing tendencies to distrust leadership."

This report was written, incidentally, last December. Hence, our committee has attempted to set forth constructive guidelines and suggestions to assure that effective statistical policy will be maintained and improved.

That concludes my statement. Thank you.

Chairman PROXMIRE. Thank you very much, Mr. Duncan.

[The report referred to in Mr. Duncan's oral statement for the record follows:]

[From the *American Statistician*, April 1973, vol. 27, No. 2]

MAINTAINING THE PROFESSIONAL INTEGRITY OF FEDERAL STATISTICS

(A report of the American Statistical Association-Federal Statistics Users' Conference Committee on the Integrity of Federal Statistics)

INTRODUCTION AND SUMMARY

Origin of committee

In late 1971, the Federal Statistics Users' Conference Board of Trustees appointed a Subcommittee to obtain further details and information concerning the personnel reassignments and reorganization of Federal statistical agencies. In early 1972, the President of the American Statistical Association was authorized by the ASA Board of Directors to appoint representatives of that Association to a joint ASA-FSUC Committee on the Integrity of Federal Statistics to draw up a statement reaffirming the need for a Federal statistical system of unquestioned integrity and to develop recommendations concerning procedures designed to protect the integrity of the Federal statistical system.

Growing concern

During the past two years the integrity of the Federal statistical system has come into question. There is growing concern that the Federal statistical system may become politicized to the extent that political expediency may override the canons of professionalism and objectivity which have long characterized major statistical agencies of the U.S. Government.

Accurate and reliable Federal Statistics are absolutely essential if the ongoing policy and planning needs of private and governmental users alike are to be satisfied.¹ The critical role of the Federal statistical system—including all

¹ Appendix A includes a discussion of the needs for reliable statistics which are evident in government, labor, industry, and universities.

major statistical organizations which are involved in the collection, compilation, analysis, and distribution of a wide range of indicators of the health and well-being of the U.S. socioeconomic system—has been underscored during the current struggle to reduce the rate of inflation and to reduce the level of unemployment in the American economy. The Federal statistical system generates a large number of annual, quarterly, monthly, and even weekly statistical indices which relate to these problem areas which have center stage among current domestic issues.

Wide public concern about the extension of political control over professional statistical agencies was highlighted at the time of the Bureau of Labor Statistics' cancellation of press conferences concerning unemployment and employment data (March 19, 1971). These concerns were heightened as a result of several major developments concerning the Federal statistical agencies. These other developments included:

(1) Reassignment of personnel and reorganization of the Bureau of Labor Statistics,² especially those persons previously associated with the press conferences which had been discontinued.

(2) A number of specific personnel shifts and several premature retirements of top level statistical personnel in important statistical agencies, including the U.S. Bureau of the Census.

(3) A reorganization of statistical agencies within the Commerce Department which resulted in a merger of analytical and policy agencies, reducing significantly the authority and power of the major operating statistical agency.

(4) Temporary discontinuance by the Bureau of Labor Statistics of the Urban Employment Survey which, since 1969, had been providing labor force and other information about residents in poverty areas in major metropolitan centers.³

These specific events were inevitably accompanied by charges and counter-charges concerning the intent and desirability of the actions. For example, two congressional committees investigated these developments.⁴ Hearings were published by the Joint Economic Committee. The Subcommittee on Census and Statistics of the House Committee on Post Office and Civil Service issued a report on October 5, 1972, entitled "Investigation of Possible Politicization of the Federal Statistical Programs".

Other professional associations have also expressed concern about this matter. For example, the Industrial Relations Research Association (IRRA) which has a particular interest in labor force statistics formed a committee chaired by Professor Killingsworth, Michigan State University, to explore the specific charges which related to the Bureau of Labor Statistics. Concerns have also been expressed formally and informally by the members of the American Sociological Association, the Population Association of America, American Economic Association, The Econometric Society, and the National Bureau of Economic Research's Conference on Research in Income and Wealth.

Approach Taken

In view of the wide-ranging interest in problems relating to the integrity of the Federal statistical system, the ASA-FSUC Committee elected to review the record generated by the Congressional hearings and investigations, the official statements of responsible appointed officials, and to discuss informally with selected government and nongovernment officials the appropriate policy and administrative actions to be taken at this time to assure that public confidence in Federal statistics will not be undermined.

In view of the importance of this issue, the Committee chose to conduct its deliberations in a quiet, nonpolitical context with the hope of providing general guidelines concerning effective policy in this area, purposely scheduling its report for release following the National election. This report summarizes the activities and conclusions reached by this Committee.

The Committee decided not to focus on specific charges or allegations since other reports have covered this ground and, importantly, since it is clearly diffi-

² A statement by the Secretary of Labor concerning the role of the Bureau of Labor Statistics and emphasizing that "the Bureau maintain, in the highest degree, scientific independence and integrity," appears in *The Statistical Reporter*, Dec. 1972, pp. 91-92.

³ According to the Statistical Policy Division of OMB, during the period when the Current Population Survey was being revised on the basis of the 1970 Population Census, the Urban Employment Survey was discontinued because the cost of continuing the Survey seemed excessive relative to the value of the Survey. This discontinuance was recommended by a technical committee composed of representatives from the various statistical agencies.

⁴ The public concern regarding these developments is further evidenced in a series of news commentaries, letters to the editors, and editorials. A selected list of such articles is available from the Committee Chairman.

cult to prove misuse of political power in such specific instances. Rather, the Committee notes that, because of the number of actions which have given rise to public concern, it is essential, at this time, to focus on both the importance of Federal statistics for policy analysis and on identifying and recommending policy for maintaining the integrity of the Federal statistical system in the future. While most developments in and of themselves appear to have had a seemingly plausible and acceptable rationale, their frequency of occurrence and conjuncture in a relatively short time period (with all the disturbing implications falling on the same side) have naturally raised suspicion and concern among a broad and diversified body of users and professional statisticians. These events continued to occur during the period of the Committee's deliberations.

Working Premise

Beginning with the basic judgment that the essential function of the Federal statistical system is to provide the best possible measures of social, biological, physical, and economic factors which are essential as the foundation for analysis, policy formulation, and for the effective administration and evaluation of public and private programs, the Committee believes that the system must include several basic ingredients:

- (1) The statistics themselves must be accurate, consistent, and timely.
- (2) The public must have confidence in the statistics which are generated and in the professional ability of the people who produce them.
- (3) Statistical programs must be continually revised and improved to reflect new characteristics of the subjects being measured and embrace new subjects as national priorities change. These revisions must be undertaken on the basis of sound statistical principles to assure that the refinements continually result in more reliable and more sensitive statistical indicators.
- (4) Technical measures of reliability and sensitivity should be available to define the uncertainties and limitations associated with specific series. This requires equal attention to be given to the gathering of basic statistical data and to the compilation, adjustment, and presentation of the resulting analytical measures and statistical reports.

These characteristics are discussed in the body of this report.

Considerable attention has been given by the statistical profession to procedures for improving the quality and character of specific statistical series. Recently, a broad review of the production and use of statistics in the Federal Government was completed by the President's Commission on Federal Statistics.⁵ The Commission emphasized the need for developing a broad view in government of the scope of statistical activities including specific attention to coordinating statistical activities, eliminating obsolete programs, building public confidence in data gathering, and improving the comparability of statistical series.

In contrast, little attention has been given to steps that have been taken, or additional steps that need to be taken, to develop public confidence in the Federal statistical system, or to identify policy measures which will ensure wide professional respect for a diverse, multifaceted statistical system. Nevertheless, this Committee believes that there are certain principles which should be emphasized at this time to provide an opportunity for maintaining and building public confidence in the integrity of the Federal statistical system. These recommendations have been developed to parallel the four conditions which are outlined in the body of this report as the basis for building a credible statistical system.

Recommendations of the Committee

Based upon the findings which are stated at the end of this report, the ASA-FSUC Committee on the Integrity of Federal Statistics believes that there is sufficient concern so that specific steps should be taken to allay fears concerning the politicization of the Federal statistical system and to assure the maintenance of high-level, professional statistical work. In light of the importance of such concerns, the Committee urges immediate and careful consideration of the following recommendations. The recommendations are grouped in relation to the conditions outlined above; the order of listing does not imply any priority.

Accurate, Consistent, and Timely Statistics. In order to assure that the Federal statistical system is capable of providing the best measures of social and economic factors which are essential as the foundation for analysis, policy formulation, and for the administration and evaluation of public and private programs, it is essential that the statistics themselves, as collected and developed, be accu-

⁵ *The President's Commission on Federal Statistics*, Volumes I and II, 1971.

rate, consistent, and timely. As a policy recommendation for achieving this objective the Committee recommends:

(1) *The Statistical Policy Division of the Office of Management and Budget should be encouraged in their efforts to broaden their directive (Circular No. A-91, "Prompt Compilation and Release of Statistical Information")⁶ to apply to all possible statistical series as a means of better assuring the timely flow of statistics.*

(2) *The Statistical Policy Division should continue to be led by recognized professional statisticians who have experience in both the Federal statistical system and have established recognition as professional statisticians in their own right. The Division should report to the top level of the Office of Management and Budget.*

(3) *The Office of Management and Budget should encourage establishment through a recognized professional agency—such as the National Academy of Sciences, the American Statistical Association, etc.—of an ombudsman position whose role is focused on receiving professional and lay criticisms of the Federal statistical system.*

The ombudsman role can be particularly significant in evaluating the conceptual base of specific statistical programs. The conceptual base used for defining a statistical series can be influential in relation to political interpretation of the resulting data. Consequently, a high-level professional with resources to call upon specialists, operating as an ombudsman for the professional community could be an important contributor to assuring an independent point of view with regard to critical statistical series.

Public Confidence in the Federal Statistical System. A key factor in assuring public confidence in the Federal statistical system is the professional statistician's evaluation of the quality of the effort by such agencies. Hence, the Committee makes the following recommendations concerning the organization and professionalization of Federal statistical work:

(1) *Heads of statistical agencies should be in the career service, a practice which has been and is now observed in all areas except for the Director of the Bureau of the Census, Administrator of the Social and Economic Statistics Administration (SESA), and the Commissioner of Labor Statistics.*

The leadership of the government's statistical programs should be of demonstrated professional competence and free of political influence.

The Committee recommends that specific qualities be identified for screening potential appointees to head Federal statistical agencies. Our specific suggestions are that as a minimum the candidates should meet most of the following characteristics and be selected without regard for political affiliation:

(a) Membership in a professional statistical association such as—American Statistical Association, Biometric Society, Institute of Mathematical Statistics, and the Econometric Society—and membership in one other professional society (American Economic Association, Population Association of America, National Association of Business Economists, American Sociological Association, Industrial Relations Association, etc.) for at least five recent years.

(b) Ability to make new contributions to knowledge in the field of statistics, or subject matter areas of the agency involved, as evidenced by publication of articles in professional journals, or awards by Federal statistical agencies.

(c) National recognition in the field of statistics as evidenced by honors, such as a Fellow of ASA, member of ISI, high office in professional society or major publication.

(d) Demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher position in a Federal statistical organization or working in a responsible statistical position in private industry, education, nonprofit, or labor.

(2) *The heads of major statistical agencies should have direct control of such functions as appointments of personnel, budget priority setting, program planning, and publications.*

A removal of these functions from the statistical bureau creates an unfortunate reduction in the effectiveness of the professional statisticians, weakening the Federal statistical system.

(3) *In the release of the data, care should be taken to stress the professional statistical production agency—not the department with overall policy responsibility. Initial release should be made by the production agency, except in cases where one agency performs contract services for another. This is particularly*

⁶ Revision of A-91, dated April 26, 1972.

true where two individual agencies are created for separate production and analysis.

Specifically, the production agency should be responsible for technical adjustments to the data such as seasonal adjustments and determination of comparability with previous time series. This may mean a major upgrading of the dedication and competence of the statistics-producing sections of agencies which are basically regulatory or administrative.

(4) Because of the importance of technical advisory committees, guidelines should be established to guarantee the selection and rotation of memberships on such committees without regard for political affiliation and with a number of specific appointments from appropriate professional organizations.

In particular, the Federal Advisory Committee Act (92nd Congress, HR 4383) should be followed. Consistent with the intent of this Act, the present Committee recommends that the membership of advisory committees to statistical agencies include a number of appointments *to be made by*⁷ recognized professional organizations such as the American Statistical Association, Industrial Relations Research Association, Federal Statistics Users' Conference, American Economic Association, the National Association of Business Economists, the American Sociological Association, etc. (This is consistent with the requirement that the membership of advisory committees be fairly balanced in terms of the points of view represented with specific attention to the professional point of view.) Further, it is recommended by this Committee that the meeting dates for key statistical agency advisory committees be published through professional society publications in addition to announcement in the Federal Register. This will create the opportunity for widespread professional input and recognition.

Statistical Programs Must be Revised and Improved. A sound Federal statistical system requires adequate budget support and development. The Committee applauds the record of the past four years during which the statistical budget has increased from \$195 million to \$313 million. Professional control of the nature and priorities of improvements is especially important. Given the need to improve the quality and character of specific statistical series, the Committee urges continued consideration of the potential benefits in reliability and effectiveness which can be achieved by appropriate increases in existing levels of support for Federal statistical production and analysis.

Current economic policy is emphasizing the growing pressures on the Federal budget and the consequent requirements for reductions in expenditures. This Committee feels strongly that the benefit of a strong statistical system clearly outweighs the costs which are currently associated with the Federal statistical system.

Technical Measures of Reliability and Sensitivity. Adequate measures of reliability and sensitivity should be developed for all principal statistical series where feasible. Since the interpretation of statistics is primarily undertaken by non-statisticians, it is essential that there be adequate access to technical advice concerning the nature and limitations of individual statistical series. To facilitate this development, the Committee makes the following recommendations:

(1) The policy of including the name of a senior professional statistician who is responsible for and familiar with the data described in the news release should be extended to all major statistical releases so that the designated professional statistician can be contacted to explain the limitations of the data presented.

Media representatives and others should be encouraged to call this individual for access to professional information concerning the nature and limitations of these series under discussion. Press conferences may be warranted if the demands for explanation become burdensome.

(2) More provision should be made for professional, periodic evaluation of important statistical series, such as that provided in the earlier President's Committee to Appraise Employment and Unemployment Statistics, to provide for regular evaluation of important statistical series.

A good example of such initiative is the recent progress by the Statistical Policy Division of the Office of Management and Budget to create an advisory committee on the national accounts and the establishment of at least two other similar committees which are being planned for Fiscal 1974. Such study commissions, if adequately funded, can provide a wide range of professional

⁷ An alternative would be to submit a slate of nominees when the agency requires final authority.

judgment and will assure deeper understanding by the professional community with respect to limitations and alternatives to existing statistical programs.

BACKGROUND AND REVIEW

The Need for Public Confidence in Federal Statistics

The public and private decisions which much be made daily in the conduct of the nation's business, commerce, and social welfare programs require increasingly sophisticated analysis. This is possible only if the data base is available and reliable. The formulation of economic, political, and other types of policy will be haphazard and subject to more than the normal margin of error if the statistics which support policy decisions are not sufficiently accurate. While it is true that timely and accurate statistics will not ensure wise solutions to our problems, they are definitely essential to the process of identifying the appropriate direction.

Reliable statistics increase many times our chances for success, especially as they provide the basis for development of better theory and explanation of the workings of socioeconomic processes. This is especially important, at present, now that policymakers are relying so heavily on the use of this data system in their effort to solve pressing social and economic problems. It is not an exaggeration to say that the future direction of national policy could be at stake.

Nothing could undermine the politician and implementation of his policy recommendations as much as an accumulated and intense public distrust in the statistical basis for the decisions which the policy-maker must inevitably make, or in the figures by which the results of these decisions are measured. Unless definite action is taken to maintain public confidence in Federal statistics and in the system responsible for their production, there will be growing tendencies to distrust leadership.

The statistical community, both generators and users, has long been concerned with the integrity of the U.S. statistical system. For example, the President's Committee to Appraise Employment and Unemployment Statistics commented more than 10 years ago:

"The need to publish the information in a nonpolitical context cannot be overemphasized. By and large this has been the case—the collection and reporting of the basic data have always been in the hands of technical experts. Nevertheless, a sharper line should be drawn between the release of the statistics and their accompanying explanation and analysis, on the one hand, and the more general type of policy-oriented comment which is a function of the official responsible for policy making, on the other."⁸

As noted later in this report, recent directives regarding the regular scheduling of releases regarding important economic indicators and the delay of at least an hour for the issuance of policy interpretations have been in line with the 1962 statement. It remains true that, as that report indicated more than a decade ago, the importance of a credible statistical system *cannot be overemphasized*. Federal statistics play a vital role in effective decision-making by government, business, labor, and universities, as outlined in Appendix A.

The President's Commission to Appraise Employment and Unemployment is only one example in the long history of commissions which have focused on Federal statistical activities. A chronological review of 12 major commissions on statistics, beginning with a House select committee in 1844, is contained in the report by Paul Feldman⁹ which was prepared for the President's Commission on Federal Statistics and reported in 1971.

The Importance of High Technical Standards in the Federal Statistical System. Since both public and private decision-makers rely heavily upon the products of the Federal statistical system, it is essential that continuing efforts be undertaken to maintain high technical standards in relation to specific statistical programs. A lack of confidence in Federal statistics can result if unduly large errors are evident in published data.

This Committee has not attempted to identify specific weaknesses in present statistical programs, although it is evident that selected programs have been the subject of controversy and technical concern. For example, when the Census

⁸ *Measuring Employment and Unemployment*, President's Committee to Appraise Employment and Unemployment Statistics, September, 1962, p. 20.

⁹ Feldman, Paul, *The President's Commission on Federal Statistics*, 1971, Volume II, Chapter 10, pp. 477-495.

Bureau publishes data for extremely small areas, it makes data available for intensive scrutiny by local experts who are able to identify errors that would have been otherwise undetected. Some errors of this sort were found after both the 1960 and 1970 Census. It is regrettable that resources are not available for making corrections in the reported small area data which are increasingly being used as the basis for public and private policy planning. Or, to cite another example, the recent revision of the Survey of Consumer Expenditures (and the transfer of field responsibility from the Bureau of Labor Statistics to the Census Bureau) has generated considerable discussion concerning the amount of testing given to the new approach, the relative costs involved, and the expected reliability and usefulness of the final results.

Both of these examples illustrate the importance of using highly professional procedures in the development of statistical systems and in the revision of collection or analytical techniques. Problems in the implementation of new approaches are inevitable. However, a high level of professionalism is critical to assure a minimum of such difficulties and to generate confidence that the difficulties will be handled in a sound and professional manner. In short, statistics have long been taken for granted—like the air we breathe. Recently, environmentalists have focused attention on the need to protect the quality of the air we breathe. Likewise, administrators are beginning to recognize the necessity for maintaining the quality of statistics as the basis for sound governmental decision-making.

Requisites of an Adequate Statistical System

The preceding sections have outlined the importance of a sound statistical system which enjoys widespread public confidence. In this section we will turn to the requirements for developing and maintaining a credible and adequate statistical system. As indicated earlier, there are four essential ingredients to achieving this objective. These are briefly discussed below.

Accurate, Consistent, and Timely Statistics. In order for the public to have confidence in the statistical system, it is essential that every effort be made to produce statistics which are accurate, consistent, and timely. It is difficult to meet all three of these criteria with equal emphasis. For example, in an effort to be timely it is often necessary to develop preliminary statistical indicators which are then subject to significant revision when more information becomes available. Likewise, significant problems occur when attempting to develop consistency in statistics produced by agencies with differing purposes, diverse administrative responsibilities, and uneven statistical capabilities.

Nevertheless, while these difficulties must be recognized, it is essential that every effort be made to assure that all governmental statistical agencies strive to meet the highest standards of (1) conceptual development, (2) statistical sampling, (3) internal consistency, and (4) historical continuity.

Public Confidence in Federal Statistics. It is relatively easy to convene professional statisticians to evaluate sample design, historical records of reliability or consistency, or to estimate significance in ranges of errors as tests of the criteria identified in the previous section. In contrast, it is somewhat more difficult to determine specifically those ingredients which will assure public confidence in the statistical system. However, assuming that the basic statistics are accurate, it is essential that the public understand and appreciate this accuracy or the value and usefulness of accurate statistics will be seriously undermined.

The first step in developing public confidence is undoubtedly the development of peer group confidence in the statistics. In other words, if the professional statisticians, biologists, physical and social scientists, etc., who utilize the data have confidence in the statistical system and in the accuracy of the data, it is more likely that the general public will accept this professional judgment as the basis for placing their confidence in the resulting statistics.

Peer group confidence begins with the appointment and advancement of highly professional persons to key policy and program roles in Federal statistical agencies. The professional ability of all agency staff members involved in the collection, compilation, and analysis of Federal statistics is crucial to the development and maintenance of strong peer group confidence in the Federal statistical system.

In a second area, it should be noted that public confidence in the Federal statistical system is strongly influenced by the actions of the press. Most members of the working press cannot be expected to make professional interpretations of the variety of statistical series which are produced by the Federal statistical system. Therefore, it is essential that the press have available to it clear reports concern-

ing important characteristics of specific statistical series and access to expert counsel in the interpretation of those reports.

The third factor related to the public confidence in the Federal statistical system is associated with political use and interpretation of the data. As noted at the outset, a major concern of this Committee has been the exploration of approaches to reducing political influence on the statistical system. Public confidence is influenced both by overt political pressure and by the appearance of political pressures. It is the Committee's position that every effort must be made to reduce both political pressure and the appearance of political pressure if peer group confidence is to be enhanced and if the general public's confidence in the Federal statistical system is to be maintained.

To illustrate the dangers of political pressure on statistical decisions, consider the technical problem associated with assigning the cost of air pollution and emission control equipment on automobiles as a component of the Consumer Price Index. There was considerable debate whether to classify this equipment as a quality improvement—consequently, not influencing the Consumer Price Index—or as a cost increase which would be reflected in the Consumer Price Index.

A statistical decision on cost versus quality in automobile pricing has to be made annually and in 1972 it had to be made during an election campaign. If political considerations were to enter this statistical issue, it would be beneficial to labor to include the emission control equipment as a cost increase, thereby adding a "cost-of-living" increase to the wages of millions of workers and, perhaps, politically reflecting adversely on the success of controls in holding down inflation.

Alternatively, political advocates who are concerned with demonstrating the success of anti-inflationary policies would urge classification of this equipment as a quality improvement, as would those interested in demonstrating the increased productivity of labor and the greater output of the economy.

A technical committee of professional statisticians was convened to resolve this statistical issue, and there is no evidence that political pressure was exercised. However, the nature of this type of decision illustrates the importance of producing technical statistical decisions which are above suspicion and maintaining them in an arena which is independent from political pressure. The cumulative effect of a series of political decisions concerning such technical details would be to destroy the effectiveness of the statistical measures as well as to undermine public confidence in the data themselves. This illustration reinforces the importance of professional judgment and decision-making as essential elements in a quality statistical system.

In summary, while it is difficult to identify specifically actions that will assure public confidence in the Federal statistical system, it is important to focus on (1) building peer group confidence in the statistical community by emphasizing professionalism in statistical agencies, (2) improving the understanding of the working press by providing easy access to expert counsel, and (3) minimizing even the appearance of political pressure or influence on the statistical system by eliminating situations and events which arouse these concerns.

Revision and Improvement of Statistical Programs. It is not sufficient to maintain the status quo even if the available statistics are accurate, timely, and consistent. The characteristics of the subjects being measured are subject to continual change. Further, as national priorities change, new subjects must be considered as the focus for Federal statistics.

It is essential that the statistical system include provision for developing revisions and improvements which will encompass sound statistical principles. As indicated earlier in the brief example concerning the Consumer Expenditure Survey, revisions and refinements will inevitably create certain difficulties. It is essential that the decisions to institute such refinements and revisions be based on a firm expectation that more reliable and more sensitive statistical indicators will result, and that revision or discontinuance of a series should not be initiated simply because the available results had proved embarrassing or unresponsive to specific administrative policies.

Each year a number of improvements in the Federal statistical system are recommended and, frequently, adopted. This continual upgrading of the system must be encouraged and, where possible, accelerated. In relation to many other Federal activities, the cost of the Federal statistical system is small. However, with the current demands for budget stringencies, all areas are subject to pressure for future reduction. In view of the importance of statistical programs

as the basis for overall policy formulation, caution should be exercised when pruning existing budgets or rejecting new programs which may be essential in the development of public policy.

A professional statistical system requires both well-qualified leadership and adequate budget support. It is recognized that there is a need for central planning to insure proper balance among all areas of demand for improved Federal statistical series. The Statistical Policy Division in the Office of Management and Budget should be encouraged to continue development of statistical policy which emphasizes these points. An outstanding beginning has been made as evidenced by the growth in support of statistical programs from \$194.6 million in Fiscal 1970 to \$312.6 million which has been requested for Fiscal 1974, an increase of 61 percent. During this period, programs for economic statistics increased from \$126.3 million to \$174.8 million, an increase of 38 percent, and programs for social and demographic statistics increased from \$68.3 million to \$137.8 million, a growth of 102 percent.

Adequate Technical Measures of Reliability and Sensitivity. The actual utilization of statistics in decision-making can be significantly influenced by the method of presentation and documentation as reflected in statistical reports. In order to minimize the problems of misuse of statistical series, it is essential that the available reports provide specific technical measures of the reliability and sensitivity of the data at hand. While many users of statistical series do not require full technical documentation of statistical procedures used in compilation, adjustment, and analysis of the data, it is essential for those who have a need or concern about these subjects that the basic reports include either indications of these technical factors or provide reference to source documents where these procedures are defined in detail.

The availability of this information is particularly important in distinguishing between preliminary, revised, and final estimates for key statistical components. If the available report does not clearly call attention to the character of the data being reported, there is a danger that broad media dissemination of the statistical measures will fail to reflect the limitations of the data themselves. Over time, the failure to distinguish between preliminary and final estimates tends to reduce public confidence in the statistical system by generating the appearance that frequent revisions were unanticipated when, in fact, they may be part of the basic procedures used.

The four characteristics of an adequate statistical system which have been discussed above serve as the framework for the following specific findings of the Committee and the recommendations which were presented earlier.

Findings of the Committee

The causes for concern which led to the formation of this Committee have been intensified during the past year. The primary finding of this Committee on the Integrity of Federal Statistics is that while there is no evidence that statistical results have been altered to support a particular point of view, there are tendencies—through reduced span of authority of professional leadership, appointment of noncareer personnel, and current and proposed reorganizations—to reduce or inhibit the independence of Federal statistical personnel. Therefore, it is particularly unfortunate that a continuing sequence of events has created broad concern regarding the professional integrity of the overall system, especially as a consequence of premature retirements of key professional staff members who, in other respects, would be expected to offer more years of exceptional service.

While the Committee has not elected to pursue specific allegations, it is clear that the organizational structure—especially through current and pending reorganizations—provides increasing opportunities to exert political influence on the development and interpretation of statistical programs. Specifically:

(1) Agency appointments of noncareer personnel, especially those with strong political affiliations rather than statistical credentials, can have an inhibiting influence on the quality, independence, and objectivity of statistical work. A further implication of such developments, in the longer term, will be a reduction in morale and a reduced incentive of both young and mature professionals to associate themselves with agencies which have overt political overtones. This will result in a deterioration of the professional role of Federal statistical agencies.

(2) The reorganization of statistical agencies undertaken in 1971 as the result of a directive from the Office of Management and Budget was intended to reduce the number of separate statistical agencies, to centralize production functions,

and to separate the production of statistics from their use in the formulation of policy. These goals would have widespread professional support. However, the application of the directive in the Commerce Department led to the creation of a complicated overlay for the Census Bureau and the former Office of Business Economics, considerably downgrading the role and independence of the operating agencies. In the new organization, the opportunities for influence by noncareer officials for the selection of new programs, for the reduction of old programs, and for other program changes have been substantially increased.

(3) Since, for about two years, target dates for the release of *principal* economic indicators have now been published in advance, the discretionary authority over the timing of these releases has been eliminated. The OMB directive (Circular No. A-91, "Prompt Compilation and Release of Statistical Information"), designed to assure that deadlines are established for the preparation and release of statistical series, has not yet been implemented on an across-the-board basis. Until the efforts now being made to this end in the Statistical Policy Division are put into effect, it is still possible to withhold some reports from preparation or to delay others for political purposes.

The Committee believes that specific steps should be taken to allay the growing fears concerning politicization of the Federal statistical system and to ensure and maintain a high level of credible, professional, statistical work. In the light of the importance of such concerns, the Committee urges that the recommendations listed earlier be promptly implemented and that such actions be properly publicized.

ASA-FSUC COMMITTEE ON THE INTEGRITY OF FEDERAL STATISTICS

Joseph W. Duncan, Chairman, Battelle Memorial Institute.

Daniel H. Brill (ASA), Commercial Credit Company.

Bernard Clyman (FCUC). The Equitable Life Assurance Society of the United States; Queens College, City University of New York.

A. Ross Eckler (ASA), Retired, (Formerly, Director, U.S. Bureau of the Census).

Thomas A. Hannigan, Jr. (FSUC), International Brotherhood of Electrical Workers.

Robert E. Lewis (FSUC), First National City Bank, New York.

Robert S. Schultz, III (ASA), New York State Council of Economic Advisers.

DeVer Sholes (ASA), Chicago Association of Commerce & Industry.

APPENDIX A

ILLUSTRATIVE USES OF STATISTICS IN GOVERNMENT, BUSINESS, LABOR, AND UNIVERSITIES

These brief highlights concerning the role of statistics in governmental, industrial, labor, and universities' decision-making show the importance of selected by statistical series. It should be noted, of course, that there are many specialized statistical series which are not mentioned below which have particularly significant roles in areas where they are applied. There is no intent in this report to evaluate the importance of any specific series.

The Role of Statistics in Government. The importance of the Federal statistical system for policy-making and administration at the Federal, state, and local governmental levels is well-known.

Almost every statistical program has its origin with legislative action which in turn requires data collection in support of program planning, administration, or evaluation. For example, the Decennial Census is mandated by a Constitutional requirement to establish the number of representatives from geographical areas throughout the nation.

The importance of maintaining public confidence in the output of our statistical system can be illustrated by selecting a few examples of the multitude of applications of statistical data in the legislative and executive branches of government. In many cases, the very organization of government itself is dependent upon statistical information. In addition to the apportionment requirement noted earlier, the size of staffs of elected representatives depend directly upon information regarding the number of people in a state or in a Congressional district. At the state and local levels, there are hundreds of provisions in various states where the population level established by the latest Decennial Census is used as a basis for

allocating funds, creating boards, granting licenses, establishing jurisdiction of local officials, and setting salary levels.

Official statistical measurements are central to the development of legislative programs by the Congress. The record of legislative hearings is typically filled with statistical exhibits and there are literally innumerable references to specific items of data. Whether legislative policy is being determined, a new program is being established, or the results of existing programs are being reviewed, the legislative uses of governmental statistics are both numerous and extensive.

The range of data involved is impressive. For example, the development of social programs such as those relating to Social Security, welfare, and aid to specific classes of the population depends administratively on data concerning employment, income, hours of work, dependency, and many related subjects. As another example, policy-makers concerned with the problems of our environment and the use of natural resources require data on existing resource availability and utilization as the basis for defining available alternatives and appropriate policies. In this area the available data base must be used to provide estimates of the growth in future uses of these resources, to prepare estimates of time required for resource depletion and to provide a basis for deciding upon quotas and the allocation of supplies among competitive claimants.

In the regulatory area, the role of data as the basis for policy determination is especially evident. Regulation in the fields of transportation, power, and communications—to cite three broad areas—based to a great extent upon statistical information concerning the number and size of businesses involved, their capacity, capital investment, and degree of penetration in the total market. If the public were to lose confidence in the basic data which are used by regulatory agencies, the very nature of regulation itself would be subject to distrust and controversy.

To many observers of Federal policy-making, the continuing intervention of the administrative agencies of the Federal government in the national economy is perhaps the most evident interaction. The national income and wealth accounts play a major role in establishing legislation and policy concerning prices, wages, monetary trends, economic stabilization, and related topics. These data are typically the basis for research and policy planning in the executive branch of government and are continually used to evaluate results achieved by administrative programs. Data concerning cost of living, unemployment levels, and capacity utilization, provide the underpinning for national economic policy including such vital areas as budget formulation and fiscal administration, as well as the administration of specific programs.

The allocation of Federal and state funds depends directly upon a number of statistical measures—including the size of the population as a whole or selected classes of the population such as public assistance recipients. Data concerning income levels, miles of highway, numbers of pupils, and other measures are provided for in a network of legislation enacted by the Congress and by state legislators. Decisions at a variety of governmental levels relating to urban renewal, public housing, recreational facilities, drainage and water supply, and health and educational facilities of all kinds must be made in the light of full information regarding the population and its characteristics.

These examples indicate that it would indeed be difficult to overestimate the value of sound statistical information in the governmental structure of the United States—a structure which has long been accustomed to making decisions on the basis of facts. The ultimate test of programs depends upon objective evaluation of the results achieved. For this purpose, reliable and continuing social and economic statistics of unquestioned validity are essential. In addition, there should be provided a body of administrative statistics for each major program, properly planned and clearly presented so that agency officials, the Congress, and the general public can judge the results that have been obtained and can call for improvements when necessary.

The Role of Statistics in Business. In addition to the internally generated statistics unique to individual businesses, most corporations rely upon Federal data for many of their critical decisions in areas such as businesses planning, market research, financial administration, purchasing, and personnel administration.

Corporate long-range planning frequently begins with analysis of national income accounts and related data such as industry production levels as the basis for establishing the broad market context for individual corporate operations. In fact, many large corporations employ full-time economists whose primary

function is analyzing national economic developments and determining their impact upon the individual corporation.

Businessmen look to statistics to tell them how the economy in general is faring as a guide in making long-range investment decisions or setting sales quotas for the year ahead. They want to get advance warning on cyclical turning points and the amplitude and duration of expansions and contractions. But frequently their needs are more precise. They want to know how each of their product lines is faring relative to industry as a whole. They want to gauge the growth of individual markets as a guide to inventory policy, plant and equipment expenditures, and new product development. They want to assess Federal budget deficits, monetary policy and interest rate trends as they may affect the financing of their firms' growth and investment. They rely on figures on prices, labor markets, wages, and supplies of materials as guides to their current operations.

Market research departments in industry extensively utilize Federal data concerning population characteristics and industry characteristics to determine basic market trends and opportunities.

Financial departments in major corporations carefully evaluate basic monetary trends as measured by the Federal Reserve System to determine current and future financial developments which will influence the cost and availability of capital to the corporation.

Purchasing officers rely upon Federally produced statistics, such as commodity price data of the Department of Agriculture and Labor and figures on shipments and inventories from the Department of Commerce to determine availability and cost of basic materials for manufacturing the firm's products.

Personnel departments rely upon local and national wage and income surveys to determine appropriate salary and fringe benefit schedules.

Hence, it is evident that in nearly all facets of business and industry, basic decisions which are essential to effective operation of the corporation are made on the basis of Federal data.

Additionally, the Federal statistical system is vital to the concerns of business in many respects beyond their internal use of data for operations and planning. The quality of the statistical base used in establishing regulatory policy, administrative programs such as the New Economic Policy—Phases II and III, and the formulation of legislative guidelines (in vital areas such as pollution standards, product quality, and import-export regulations) is crucial to business leaders and decision-makers.

The Role of Statistics in Labor Negotiations. Federal statistics directly affect the entire scope of industrial relations, including collective bargaining and contract administration. Collective bargaining is a key element in the American free enterprise system, and it could not be successfully carried on without reliable Federal statistics acceptable to all interested parties—labor, management, and the general public alike. Both parties at the bargaining table need objective insight and understanding into each other's position. Also, they direct much of their efforts toward convincing the general public of the equity of their own positions as reflected in objective official statistics. In this often supercharged atmosphere, negotiations would quickly deteriorate into chaos if no reliable and acceptable statistics were available as the focus of discussion. The same would be true of the day-to-day operations of contract administration.

Statistics of key importance for collective bargaining and contract administration include wages by industry, region and state, and trends and industry data relating to fringe benefits such as paid holidays, vacations, health insurance, and pension benefits. Cost-of-living provisions based on the Consumer Price Index affect the income of four million workers and pensions of two million retirees. Business and labor groups use the Consumer Price Index to develop retirement and health insurance programs, the government, to formulate social and economic policies, and individuals, to check on their real earnings. The Pay Board adopted consumer price indexes along with productivity indexes as the two major criteria governing acceptable noninflationary wage increases.

Labor market conditions and the amount of unemployment are matters of primary interest to union and management negotiators as indicators of the economic situation in given areas or localities. Statistics measuring the frequency and severity of work injuries by industry are of great importance to labor and management since they serve as the basis for specific insurance provisions and new laws designed to protect workers from death and disabling injury. Any lack of confidence in their accuracy or reliability by either of the parties concerned would jeopardize this accepted approach to the settlement of conflicting positions.

The interest of labor in good statistics is not limited to their usefulness in labor negotiations, however. Statistical information is vital in the formulation of much legislation which either expands or restricts the basic rights of labor and management. Many far-reaching economic decisions made by government leaders, such as establishing the Construction Industry Stabilization Council, plus the imposition of wage and price controls, are based upon Federal statistics.

The Role of Statistics in Universities. Universities continually conduct research designed to assist businesses, labor organizations, and government agencies in making sound decisions of the kind illustrated above. In addition, universities use Federal statistics to test basic theories on which such decisions are based and to search for more useful theories in a diverse range of topics including all areas of social, biological, physical, and economic systems. Much of this basic research is cooperative among government, business, and universities. Clearly, we cannot develop true understanding of basic social and economic processes unless our historical records are comprehensive and accurate.

Of equal importance, the entire education process depends upon the evaluation and interpretation of basic data. If the student and/or teacher lacks confidence in the information base, it is difficult for the educational endeavors to proceed.

Other Roles. There are many important uses for statistics which have not been mentioned in the above sections.* The intent here is simply to illustrate the importance of statistics in a wide range of sectors. For example, the discussion of statistics in labor negotiations is only one example of the use of statistical series by the labor movement. Many uses by other sectors could be emphasized including use of crop reports and other agricultural statistics by individual farmers and consumers, statistical analyses by state and local governments in establishing governmental policy, and use of statistics by news media as an underpinning for planning future program emphasis, reporting on current problems, etc.

As noted in the introduction to this report, the discussion of the importance of reliable statistics which are evident in government, labor, industry, and universities are highlighted above to demonstrate that accurate and credible Federal statistics are: "... absolutely essential if the ongoing policy and planning needs of private and government users alike are to be satisfied."

APPENDIX B

NOVEMBER 10, 1972

STATEMENT OF POLICY BY THE SECRETARY OF LABOR CONCERNING THE ROLE OF THE BUREAU OF LABOR STATISTICS

In Order No. 49-69, dated November 25, 1969, the Secretary delegated authority for labor statistics programs to the Commissioner of Labor Statistics. Traditionally, the Bureau of Labor Statistics, which the Commissioner heads, has had a dual responsibility. One is to serve as the statistical and research arm of the Department of Labor, supplying the Department and its program offices with data important to their functioning. The other is to provide information to the public on subjects concerning labor in the most general and comprehensive sense. Both responsibilities require that the Bureau maintain, in the highest degree, scientific independence and integrity. The second function, particularly, requires that the public be confident that the Bureau does, in fact, possess these qualities and that they will be preserved.

The purpose of this statement is to reaffirm the importance of the Bureau's scientific integrity, and to set forth certain guidelines that will help to preserve it.

The decision-making process in producing statistics involves:

the allocation of BLS resources

the appointment of personnel and selection of advisory committees

the determination of appropriate statistical methods and operating procedures

the preservation of confidential records supplied by respondents to surveys

the preparation of technical analysis and interpretation of the data

the release of information to the public.

The Commissioner's decisions with regard to these matters must, of course, follow the policy, budget and program objectives established by the Department

*The official report of *The President's Commission on Federal Statistics* includes a lengthy discussion of various groups which are users of statistics—Volume I, pp. 77-102.

of Labor. They must also conform to the statistical standards and policies established by the Office of Management and Budget under the Federal Reports Act. However, there shall be no decisions which are not in concert with the professional and technical expertise of the Bureau. Under these conditions scientific independence will continue to be the hallmark of the Bureau of Labor Statistics.

A number of specific safeguards help to preserve this scientific independence. Among them are the following:

1. Two active advisory councils are informed about and advise upon BLS programs and decisions. They are the Business Research Advisory Council, with representatives drawn from the business community, and the Labor Research Advisory Council, with representatives from labor unions. The two councils operate independently of one another, and both have numerous committees concerned with every subject-matter area covered by the BLS.

2. A new Academic Advisory Council will be organized later this year, with members from several professional organizations. This new group, consisting of economists and statisticians in universities and research institutions, also will advise the BLS on its program and procedures.

3. In the release of principal economic indicators BLS follows guidelines established by the Office of Management and Budget that help to assure the objectivity of Federal statistics:

(a) Data are released by the principal statistical officer in charge of the agency. This means that the Commissioner determines the date and hour of release and approves the text of the release, and that the BLS is clearly identified as the source agency in the release.

(b) Data are released as promptly as possible, and always within two working days after they have been compiled and checked.

(c) The schedule of release dates is published in advance.

(d) In order to clearly separate the release of data from policy-oriented commentary, no comments by a policy-making official are made until at least one hour after the release of the data by the BLS.

4. The Secretary has delegated to the Commissioner full authority to set up appropriate procedures and regulations to safeguard the confidentiality of the reports made to BLS by respondents to its surveys. These regulations apply throughout the Department as well as to other agencies or individuals within or outside the government, and prevent the use of BLS data for other than statistical purposes.

James D. Hodgson
Secretary of Labor

Source: *Statistical Reporter*, December 1972, pages 91-92.

APPENDIX C

LISTING OF SELECTED MEDIA ARTICLES CONCERNING INTEGRITY OF THE FEDERAL STATISTICAL SYSTEM*

September 29, 1971—*The Washington Post*, "Nixon Ousting Labor Analysts" by Frank C. Porter.

November 17, 1971—*The New York Times*, "Lawmaker Sees Census Politics" by Jack Rosenthal.

February 25, 1972—*Journal of Commerce*, "A Staff Report— Does the Administration Cloud Statistics on Business Activity?"

August, 1972—Annual Meeting of the American Statistical Association *Statistics and Politics* by Philip M. Hauser.

September 6, 1972—*The Washington Post*, article by Nick Katz, "Farm Income Knowingly Overstated by \$1 billion".

October 22, 1972—*The New York Times*, Washington Report Article by Eileen Shanahan on interpretation of economic statistics.

November 5, 1972—*The New York Times*, Letter to the Editor from Harold C. Passer discussing above article by Eileen Shanahan on his interpretation and pronouncements during the recession in 1970.

November 6, 1972—*The Wall Street Journal, Review and Outlook*—"The BLS Fuss."

November 27, 1972—*The Wall Street Journal*, Letter to the Editor by Senator Proxmire pointing out that the Joint Economic Committee had been holding monthly employment data hearings since they were discontinued by BLS.

*Editorial comments have also included political cartoons such as that in *The New Yorker's* issue of October 14, 1972, depicting the "Bureau of Rosy Statistics".

December 20, 1972—*American Banker*, Business Outlook by J. A. Livingston, reports the surprise and astonishment of economists and statisticians at the accepted resignation by Geoffrey H. Moore as Commissioner of Labor Statistics. January 29, 1973—*The Wall Street Journal*, front page news item noting resolution by the Industrial Relations Research Association.

APPENDIX D

RESOLUTION BY THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION EXECUTIVE BOARD

(December 29, 1972)

The Executive Board of the Industrial Relations Research Association, having received and considered a report from its committee appointed to investigate recent events concerning the U.S. Bureau of Labor Statistics, resolves as follows:

1. that public confidence in the professional integrity and credibility of the Bureau of Labor Statistics is essential, because the Bureau publishes data and materials which are used regularly in the labor-management relations, business contracts and economic forecasts;

2. that the credibility of the Bureau of Labor Statistics has been impaired by events of the last two years, including the termination of press conferences by Bureau of Labor Statistics personnel and the subsequent reassignment of key personnel in the Bureau;

3. that the Board views with particular concern the acceptance of the requested resignation of the Commissioner of Labor Statistics three months prior to the expiration of his statutory term of office, because this termination under these circumstances represents a sharp break with the long-established tradition that this position has not been regarded as a political appointment;

4. that it is most important, if further impairment of the credibility of the Bureau of Labor Statistics is to be avoided, that the new Commissioner be a person with the highest professional qualifications and objectivity;

5. that it is desirable that the decision to discontinue press briefings by the Bureau of Labor Statistics technical personnel should be carefully reconsidered;

6. that nothing in this resolution should be construed to indicate that this Association questions the integrity of the preparation of BLS figures.

To be signed by: Ben Aaron, President 1972, Douglas Soutar, President, 1973, David Johnson, Secretary-Treasurer.

Source: *Congressional Record*, January 11, 1973, page S464

APPENDIX E

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 26, 1972.

Circular No. A-91, Revised.

To the heads of Executive Departments and establishments.

Subject: Prompt compilation and release of statistical information.

1. *Purpose.* The purpose of this Circular is to insure that the principal statistical series which are issued by agencies to the public annually or more frequently are released without unnecessary delay and that the publication dates for the principal weekly, monthly and quarterly indicators are made publicly available in advance. The prompt release of official statistics on a regular schedule is of vital importance to the proper management of both private and public affairs.

2. *Rescission.* This Circular supersedes and rescinds Circular No. A-91, dated February 12, 1969. It covers annual and semiannual series as well as those issued more frequently. Also it reduces from quarterly to annually the reports required by the Office of Management and Budget on the release of certain statistical series having more limited use than the principal indicators identified each month in the OBM publication, *Statistical Reporter*.

3. *Authority.* This Circular is issued under the authority of Section 103 of the Budget and Accounting Procedures Act of September 12, 1950 (31 U.S.C. 18b), Executive Order 10253 of June 11, 1951, and Executive Order 11541 of July 1, 1970.

4. *Coverage.* The Circular applies to all statistical series issued by agencies to the public annually or more frequently, unless otherwise exempted by the OMB.

5. *Objectives.* It is the aim of this Circular to accomplish the following objectives:

(a) The shortest practicable interval should exist between the date or period to which the data refer and the date when compilation is completed. Prompt public release of the figures should be made after compilation. In the case of principal indicators, the goal is to accomplish compilation and release to the public within 20 working days. Within this period no more than two working days should be allowed for the public release of data, unless other arrangements are approved by the OMB.

(b) In the case of other series, more time can be allowed, but every effort should be made to keep it to a minimum. Series requiring an inordinately long time to compile should be reviewed to see what purpose they serve and whether they should be discontinued or reduced in frequency (e.g., monthly series made quarterly or annual).

(c) Release dates for principal economic indicators will appear each month in the OMB publication, *Statistical Reporter*. Care should be taken in scheduling these release dates so that they can be met. Unless directed otherwise by OMB, figures which become available early should be released early.

(d) Initial release of statistical series should be made by the statistical agency in a written report. A press release should be issued if it would significantly speed up the release of the data to the public. There should be a one-hour separation between the issuance of the release by the statistical agency and related commentary.

6. *Responsibilities.* Each agency is directed to review continually its practices in releasing statistical series to the public and to take such action as may be necessary to carry out the objectives of this Circular.

7. *Reports and records.* Each agency that publishes statistics subject to the provisions of this Circular will submit reports to the OMB and maintain records in accordance with instructions in the Attachment and in the formats of the Exhibit.*

8. *Inquiries.* For any information concerning this Circular, please call the Office of Management and Budget, Statistical Policy Division, telephone: code 103-4911 or 395-4911.

GEORGE P. SHULTZ, *Director.*

Chairman PROXMIRE. Proceed, Mr. Killingsworth.

STATEMENT OF CHARLES C. KILLINGSWORTH, PROFESSOR OF ECONOMICS, MICHIGAN STATE UNIVERSITY

MR. KILLINGSWORTH. I have submitted a prepared statement which I will simply summarize for the hearing this morning. I believe that this prepared statement follows on quite logically to the statement that we have just had from Mr. Duncan, in the sense that the Industrial Relations Research Association did reach the conclusion last December that the credibility of the Bureau of Labor Statistics has been impaired by the events that have occurred in the last 2 years.

As the chairman has mentioned, I was the chairman of a committee which undertook a factual investigation for the IRRA. We did not concern ourselves as much with guidelines as did Mr. Duncan's committee. Rather, we tried to investigate the charges and countercharges and make some judgment as to the effects that the events had had.

We considered among other things the cancellation of press briefings which the chairman has mentioned. One point of some interest and perhaps significance that our investigation uncovered was that the decision to cancel these press briefings was not made within the Bureau of Labor Statistics, nor was it made within the Department of Labor.

*Attachments available from the Office of Management and Budget upon request.

This was a decision in the White House. It was an order that was transmitted to the Secretary of Labor and announced by him.

We interviewed a number of reporters who had been attending the press conferences and writing stories concerning the unemployment and price statistics, and we discovered a rather strong feeling among those reporters that the cancellation of these press briefings was a serious mistake, particularly in view of this background of some conflict between the professional evaluation of the numbers and the statements that had been made in press conferences at the same time by political figures. For example, on one occasion there was a conflict between an evaluation of an unemployment rate change as "marginally significant" by the technician, and a statement made by the political representative that the change was "highly significant."

The cancellation of press briefings was followed by another event which received somewhat less attention but which may have been more significant in this developing sequence of events. This was a press release, not presented at a conference but simply a handout prepared by the Bureau of Labor Statistics in accordance with its usual policy, concerning the unemployment rate change between May and June of 1971. That release warned in fairly moderate tones that the drop of six-tenths of a percentage point in the unemployment rate between May and June had very possibly been overstated because of some technical problems with the seasonal adjustment factors. The release warned also that when the seasonal adjustment factors were revised at the end of the year, as they always are, that change might well be moderated, and the fact of the matter is that that is what happened. The reported decrease in the unemployment rate was actually cut in half, from six-tenths of a percentage point to three-tenths of a percentage point.

Nevertheless, this playing down of the significance of the change angered the administration considerably. There were press reports to that effect at the time and our investigation strongly confirmed that there was very strong resentment of this handling of a decrease in the unemployment rate.

I should add that although there was an apparent decline in the unemployment rate, it went back up to the 6 percent level and remained at that level for about a year after this event took place, so that it was not really a significant change in the sense of establishing a trend.

However, it was only a relatively short time after this particular development that a reorganization of the Bureau of Labor Statistics was undertaken by Geoffrey Moore, the Commissioner of Labor Statistics, and this reorganization also involved the reassignment of two key men who had been involved in the controversy over the press briefings. One of those was Harold Goldstein, who had been conducting the press briefings, and another was Peter Henle, who had written a memorandum which had been rather widely circulated within the Bureau and within the administration protesting the decision to discontinue the press briefings.

Our committee discussed this reorganization and reassignment in some detail with Commissioner Moore, who took full responsibility for it. We were convinced that there were sound organizational reasons not only for the reorganization but for the reassignment. We were also

convinced, however, that the timing of this reassignment particularly and the way in which it was handled in terms of the notification of the individuals involved certainly had the effect of creating the impression within the Bureau that there was a causal relationship between the cancellation of briefings, the displeasure of the administration with the June release, and this reassignment of individuals. Commissioner Moore was not willing to give us an unqualified assurance that the reassignment of Harold Goldstein was completely unrelated to the displeasure with his press briefings that had been expressed by the Secretary and the White House. Commissioner Moore himself, I might say, had previously expressed his own satisfaction with the way in which Harold Goldstein had conducted these press briefings.

Then, some months later, in December 1972, came the effective dismissal of Commissioner Moore himself. His resignation had been requested along with the resignations of a number of other Presidential appointees in the administration and I think it is fair to say to his considerable surprise the resignation was accepted in December.

This was an event that in some ways was quite unprecedented in the history of the Bureau of Labor Statistics. Unlike many other Presidential appointees, the Commissioner has a statutory 4-year term, and Commissioner Moore's term had another 3 months to go at the time that he was in effect dismissed from his position.

No other Commissioner has ever been removed from office prior to the expiration of this statutory term. Rather, the strong tradition has been that the Commissioner is a nonpolitical official and most of them have served quite lengthy periods.

It was the conclusion of my committee that this sequence of events considered together did convey a fairly clear message to the personnel of the Bureau of Labor Statistics. That message was, if you displease the administration, you may lose your job.

It was our conclusion also that this is a highly unfortunate situation, because obviously these events were well known to the clientele of the Bureau of Labor Statistics, and today I think it is fair to say that many of the clientele read the releases and the articles and the studies that are released from the Bureau of Labor Statistics, with a kind of skepticism that one did not have 2 years ago, or 5 years ago, simply because of the awareness of this situation that has developed in which the professional personnel of the Bureau of Labor Statistics have been made aware that Civil Service may very well not protect them if they state conclusions or even if they interpret figures in a way that is unacceptable to the political figures in the administration.

Now, we have no evidence, and I want to emphasize that we did not conclude that there was any carefully thought out plot to achieve this result. We don't know that anyone sat down and said we will take step 1 and then 2 and 3 and we will achieve this result. It is entirely possible that each of these decisions that I have mentioned was made independently, and perhaps without thought to the effect that was being created.

Nevertheless, I believe that it is accurate to say that we do have this result of a feeling of insecurity in the Bureau of Labor Statistics.

There is one other caveat that I want to mention and that is that we have no evidence that the figures that are being released by the Bureau of Labor Statistics have been tampered with in any way, that the integrity of the gathering and reporting of statistics has been affected by

this development. However, it is my feeling that unless some steps are taken to correct this impairment of credibility that has developed, we may very well have a developing skepticism concerning the accuracy and the reliability of the figures themselves.

Now, I also offer some suggestions as to steps that might be taken to remedy this situation. One is the fairly obvious suggestion that we need a new Commissioner of Labor Statistics with the very highest credentials. Obviously that is always desirable. It is particularly desirable in this situation in which there has been an impairment of credibility.

We need a man not only of high professional qualifications, we need a man of considerable independence, and he needs to take some steps to reestablish the credibility of the Bureau. Under the circumstances that have developed here, it is my feeling that one obvious and effective step that a new Commissioner could take would be to reinstate these press briefings.

I won't try to go into the pro and con arguments concerning those press briefings. It is my judgment that they can be conducted very satisfactorily. The unemployment and price figures are I think by general agreement the most important figures that are released by the Government and a fairly strong case on the merits can be made for these briefings, but under the circumstances a symbol of the independence of the Bureau of Labor Statistics could be provided by the reinstatement of these press briefings.

Then, and last, I recommend that a committee should be appointed by the new Commissioner to examine the whole program of the Bureau of Labor Statistics. As Congressman Conable indicated, many times programs get started and simply go on and on sometimes without too careful consideration of how valid they are, or what real needs they meet. I think there are some programs in the Bureau of Labor Statistics that could be discontinued without any great loss. There are also some gaps in their statistical program.

I feel, and many other students of the labor market feel that it is time for a very careful reexamination of the whole system of concepts on which our labor market statistics rest. Some of these concepts go back to an earlier period when the labor market was rather different from what it is today, and I believe that we need a reexamination of some of these concepts. Of course, the prerequisite for any examination of that sort which is to be useful is independence, the willingness to pursue ideas wherever they may lead. I think that with this kind of program, the credibility of the Bureau of Labor Statistics can be reestablished.

Thank you.

Chairman PROXMIRE. Thank you, Mr. Killingsworth.

[The prepared statement of Mr. Killingsworth follows:]

PREPARED STATEMENT OF CHARLES C. KILLINGSWORTH

POLITICS AND THE BUREAU OF LABOR STATISTICS

"The credibility of the Bureau of Labor Statistics has been impaired by the events of the last two years. . . ." This was the salient point of a resolution which was adopted last December by the Executive Board of the Industrial Relations Research Association. (The full text of the resolution is attached as Exhibit A.) The IRRA has a membership of approximately 3,000 persons, drawn from gov-

ernment, labor, management, the universities and research organizations. The Executive Board is structured to represent this diverse membership. The December resolution was adopted after the Board had heard a report from a special committee which had been appointed to investigate "recent events" in the BLS. The members of the committee were Professor Melvin W. Reder, City University of New York; Dr. Harold L. Sheppard, Upjohn Institute, Washington; and myself as chairman. The committee made an oral report to the Executive Board in December. The purpose of this statement is to restate the factual findings which were the heart of that report. In addition, I will present my own views concerning the impact of these recent developments on the Bureau of Labor Statistics, and I will offer some suggestions for remedying the present unsatisfactory situation.

I

The principal "events" with which the IRRA committee concerned itself were three in number. They were as follows:

(1) The termination of press briefings by BLS technical personnel which, for many years, had been held monthly in conjunction with the announcement of the consumer price index and the unemployment rate. This occurred in March, 1971.

(2) The reorganization of BLS and the reassignment of two top-level career men: Harold Goldstein, who had previously conducted the press briefings; and Peter Henle, who had written a memorandum protesting the termination of the briefings. This occurred in September, 1971. Both men left the BLS shortly after this event.

(3) The acceptance of the previously-requested resignation of Geoffrey H. Moore, the Commissioner of Labor Statistics, some three months prior to the expiration of his statutory terms of office. This occurred in December, 1972. Some background information is essential in order to understand fully the impact of each of these developments on the Bureau and on its clientele.

Termination of Press Briefings. Repeatedly during late 1970 and early 1971, the press had highlighted real or apparent conflicts between the statements of BLS technical staff and political figures of the Administration—usually the Secretary of Labor or the Chairman of the Council of Economic Advisors—concerning the newly-announced price or unemployment statistics. The conflicts were especially frequent with regard to the unemployment figures. Once, for example, the BLS spokesman called the unemployment figures "sort of mixed," while the Secretary of Labor called them "heartening." On another occasion, the BLS technician said that a decline in the unemployment rate was "marginally significant," while the Secretary said that it was "highly significant."

The BLS press briefings long antedated the present Administration. With only brief interruptions, they had been held for many decades. The Nixon Administration had raised the question prior to 1971 whether they should be discontinued, and the unanimous reaction of the senior staff of the BLS had been that they should be continued. Commissioner Moore suggested publicly after the event that no recommendation for termination had been forwarded from the BLS. The decision to terminate was announced by the then Secretary of Labor, James D. Hodgson. However, the investigation of the IRRA committee established that the decision was actually made in the White House and that an order to that effect was then sent down the line to Secretary Hodgson.

A lively controversy developed over this decision. Administration spokesmen offered a number of reasons for the termination. No other statistical agency in the federal government held such briefings; the BLS technicians were always being exposed to questions from the press with policy implications; and the termination of the briefing sessions had been recommended by the President's Committee to Appraise Employment and Unemployment Statistics (the Gordon Committee) in its report in 1962. These were among the most-frequently used arguments in various forums. They were far from unanswerable. By general agreement, the unemployment rate and the consumer price index are the two most important numbers developed by the federal government. No other numbers generate as much commentary in the White House, in Congress, in the press, and in other forums. Commissioner Moore had stated both publicly and privately that the BLS technicians had handled the conferences satisfactorily, without encroaching on the policy areas properly left to political figures. And Professor R. A. Gordon, who had been the chairman of the committee that usually goes by his name, was the first to deny that that committee had recommended the termination of press briefings by BLS technicians.

These comments are not intended to do more than to indicate the nature of the controversy that developed. My personal judgment is that, although plausible arguments can be made for the Administration decision, on balance the stronger arguments on the merits of the question are on the side of those who opposed that decision. But most reasonable people, I think, would agree that the question is one about which reasonable people might differ—if they focus narrowly on the simple question whether or not BLS technicians should regularly conduct press briefings on the unemployment rate and the consumer price index. If this had been the only development significantly affecting the Bureau of Labor Statistics, there still would have been controversy but perhaps considerably less concern about the integrity of the BLS. The heart of this matter is that each of these incidents draws part of its meaning from each of the other incidents. It is seriously misleading to consider each incident completely in isolation. This is a situation in which the whole is considerably greater than the sum of its parts.

Reorganization and Reassignment of Personnel. Although press briefings by BLS technicians were terminated in March, 1971, explanatory press releases were still issued. The release announcing the unemployment rate for June, 1971 (issued on July 2, 1971) stated that the rate had dropped from 6.2 percent in May to 5.6 percent in June. The release warned, however, that this drop "may be somewhat overstated because of the seasonal adjustment procedures and because more young workers than usual were still in school during the survey week." A prominent footnote explained in some detail the basis for this comment, and added that "When the seasonal adjustment factors for this year are updated, the May-June 1971 change will probably also be moderated." This guarded prediction turned out to be correct; the revised seasonally adjusted figures computed early in 1972 turned out to be 6.1 percent for May and 5.8 percent for June, which cut in half the amount of the drop originally reported. At the time, though, the warning that the change may have been overstated evoked dismay and anger within the Administration. These reactions were duly reported in the press and the Department of Labor was privately told of President Nixon's anger concerning the incident.

It was against this backdrop that Commissioner Moore undertook a reorganization of the Bureau and a reassignment of personnel in September, 1971. Word of this action promptly "leaked" to the press, and news stories, editorials, letters, columns and cartoons emphasized the theme that the BLS technicians were being punished for offending the Administration by their honesty. President Nixon's Press Secretary and Commissioner Moore insisted that the reorganization had been under consideration for a long time, that it brought the BLS structure into line with the earlier recommendations of the Office of Management and Budget, and that the reassignments of personnel were entirely unrelated to the controversies that had developed a little earlier.

The IRRA committee discussed the reorganization and the reassignments in considerable depth with Commissioner Moore. One conclusion that the committee drew from this discussion was that there were defensible and understandable organizational and managerial reasons for the reorganization and reassignments. But it was also clear from other interviews that the timing of the reassignments, and the manner in which they were announced to those affected, created the strong impression that the changes were related to the controversies just discussed. During our interview with Commissioner Moore, one of the committee members asked him the following question: "Are you willing to state categorically that your decision to reassign Harold Goldstein was not influenced by the Secretary's displeasure with his press conferences?" This was the only question that Commissioner Moore chose not to answer for the IRRA committee. And, when the committee met with Secretary Hodgson (nearly two years after the press conference in question), he remarked that Goldstein had "handled those press conferences so well that there was an uproar every month."

Displacement of Commissioner Moore. Shortly after the 1972 election, the White House directed all Cabinet members, subcabinet members, and a number of other presidential appointees to submit their "resignations." Secretary Hodgson appears to have been among the first to be notified that his resignation was being accepted. Then, on December 14, 1972, the White House announced that several additional resignations from the Department of Labor were being accepted, including that of Commissioner Moore.

The Commissioner of Labor Statistics had a statutory term of office of four years. In Commissioner Moore's case, his term had three months left when he was, in effect, dismissed. This was the first time in the nearly 90-year history of the

Bureau of Labor Statistics that a Commissioner had been removed before the completion of his term of office. Indeed the Commissioner has always heretofore been regarded as a non-political official, and long tenure in office has been the rule rather than the exception. Ewan Clague, for example, served under five presidents of both parties. In accordance with its practice at the time, the White House gave no reason for the removal of Commissioner Moore. So the event must speak for itself.

II

The removal of Commissioner Moore, in my judgment, effectively removed any ambiguity which the objective observer might have found in the preceding events. It seems fair to say that, if the message to BLS staff members had theretofore been muted and ambiguous, it suddenly came through loud and clear: If you offend the Administration, you may lose your job. It is certainly within the realm of possibility that this message was not planned or intended by the Administration. Conceivably, the three actions just discussed may have been unrelated, arising out of ad hoc decisions made without consideration of the apparent pattern that was emerging. The IRRA committee certainly has no evidence that, at some point in time, a decision was made within the Administration to create a situation in the Bureau of Labor Statistics which would make the staff responsible to political pressures. What counts here, though, is not the motivation or the intention but the effect. The effect, to put the matter bluntly, is pressure for political conformity.

I want to emphasize as strongly as possible—as does the IRRA resolution—that I see no basis for a suspicion that the figures released by the BLS are no longer trustworthy. Any tampering with such a number as the national unemployment rate, for example, would necessarily become known to a considerable number of people within the BLS. It seems certain that such tampering would quickly be exposed, though “leaks” to the news media if by no other means.

The effects of the perceived political pressure on the BLS are somewhat more subtle. One effect has been a high rate of turnover of senior staff members of the Bureau. Both Harold Goldstein and Peter Henle left not long after their reassignment; Goldstein took early retirement and Henle took a leave of absence following which he found a job elsewhere in the federal government. A surprising number of other long-service staff members of the BLS—some in key jobs—have also left, some retiring early and others taking new jobs in other agencies or in private industry. The IRRA committee did not investigate the circumstances of these retirements and resignations, and no doubt it would be misleading to attribute all of them to the events previously discussed in this Statement; but it seems reasonable to attribute at least some of them to this cause.

Job opportunities for senior people in the federal service and in the universities are not plentiful these days, and this fact has probably helped to keep the turnover at the BLS below what it might otherwise have been. Some of the senior staff people still at BLS report in private conversation that morale is quite low. The most important aspect of the situation, though, is the effect of perceived pressure for political conformity on the exercise of judgment by the BLS professionals. Fairness requires the presumption that there are some with sufficient courage, or independence, or private means, to remain unaffected even if they believe that honesty may jeopardize their jobs. But there must also be a significant number of persons who feel that discretion is the better part of valor, and that there is wisdom in the old bureaucratic saying, “never stick your neck out.” I can testify that as I have read the monthly BLS reports on employment and unemployment in recent months, I have noted unusual developments in the figures that I think would have been the subject of comment in the past but which now pass without mention in the official press releases.

That impression of mine could be a mistaken one. But the increased skepticism with which one reads BLS releases these days is the essence of the point made by the IRRA resolution: that the credibility of the BLS has been impaired. To say that a substantial part of the professional clientele of the BLS was shocked by the removal of Commissioner Moore may be an understatement. The loud and clear message to the BLS staff was perfectly audible to the clientele as well. I think that it is not unreasonable for the BLS clientele to assume that at least some staff members are responsive to the pressure for political conformity.

The best performance of their job requires that the BLS professional staff should have the assurance that the honest exercising of professional judgment will not endanger their job tenure. Often it is not enough merely to tell the public what the unemployment rate is (for example); it may be just as im-

portant to know how reliable the figure is, and why it changed, if it did. The fact that a statement concerning the significance of a number may have political repercussions is certainly not the same as a recommendation for a policy change based on the number. The first is clearly a proper function of the technician, and only the latter should be reserved for the political figure.

If pressure for political conformity has a chilling effect on the reporting of factual findings, surely the effect is even greater in the area of innovative research and the development of new ideas and concepts. Let me give you a specific illustration of my point. Many students of the labor market believe that we should have a rigorous review of the conceptual basis for our elaborate system of employment and unemployment statistics. To cite only one example, there are large discrepancies between most econometric estimates of hidden unemployment and the BLS reports of "discouraged workers" that are based on household surveys. Which are closer to reality? And should we try to find ways of making sure that at least some of the hidden unemployed actually get into the official count? How adequate and realistic, under present-day conditions, is the present definition of "seeking work?" Should we attempt to develop some measures of underemployment or "subemployment" to supplement the present count of the unemployed? These questions are merely illustrative, of course, and not exhaustive. But it is obvious that at least some of the answers would have substantial political implications. How secure could the BLS professional staff feel today in tackling such questions? And how confident could the BLS clientele be that the answers were not affected by political pressure?

III

The credibility of an agency like the Bureau of Labor Statistics is a valuable national asset. I have been speaking from the no doubt parochial viewpoint of an academic scholar. But the agency serves many interests. Wage rate changes for millions of workers are determined by BLS numbers under the provisions of escalator clauses, and these numbers are a major consideration in most collective bargaining negotiations. Such examples could be multiplied. A loss of confidence in the integrity of the numbers published by the BLS would create acute national problems. It is essential to repair the damage that has already been done to the credibility of the BLS before the doubts that have been created spread to the numbers.

In my judgment—and that was also the judgment of the IRRA Executive Board—the essential first step is to appoint as the new Commissioner of Labor Statistics "a person with the highest professional qualifications and objectivity." The intended implication of this phrase from the IRRA resolution is that such a person would not himself be responsive to political pressures, and that he would protect his staff from such pressures. Of course it is banally obvious that we always need well-qualified men for important government posts. But the need for a Commissioner of Labor Statistics whose qualifications are completely beyond challenge is really critical at this juncture, because of the sequence of events in the past two years.

It is not always enough to be virtuous: some occasions demand a demonstration of virtue. That will be true for the new Commissioner. If he takes office with nothing more than a determination—no matter how firm—to resist future applications of political pressure, but feels that it would be indiscreet to make a point of this intention before some new need arises, he may do little to repair the impaired credibility of the BLS and to give new courage to his staff. In my opinion, what is needed is some highly visible symbol of the restoration of the professional independence of the Bureau. The best way I can think of to provide that symbol would be to reinstate the BLS press briefings on the unemployment and price figures. Whatever may be the abstract pros and cons of such conferences, it seems to me that, against the backdrop of the last two years, the case for resuming them is overwhelming.

Over the longer run, the new Commissioner might be wise to recommend the appointment of a new "Gordon Committee" to undertake a thorough review of BLS programs, with a view to recommending the elimination of some that are not serving useful purposes, the establishment of new ones to plug gaps, and the revision of some. I would hope that the Commissioner would direct particular attention to our present system of labor market data and would challenge the committee to reconsider the existing conceptual basis for the data. In this way, the new Commissioner might serve the dual purpose of renovating and modern-

izing the data program of the Bureau and demonstrating the willingness and the freedom of the Bureau to stimulate and consider new ideas without politically imposed restraints.

EXHIBIT A

RESOLUTION BY THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION EXECUTIVE BOARD

(Adopted December 29, 1972)

The Executive Board of the Industrial Relations Research Association, having received and considered a report from its committee appointed to investigate recent events concerning the U.S. Bureau of Labor Statistics, resolves as follows:

1. that public confidence in the professional integrity and credibility of the Bureau of Labor Statistics is essential, because the Bureau publishes data and materials which are used regularly in labor-management relations, business contracts and economic forecasts;
2. that the credibility of the Bureau of Labor Statistics has been impaired by events of the last two years, including the termination of press conferences by Bureau of Labor Statistics personnel and the subsequent reassignment of key personnel in the Bureau;
3. that the Board views with particular concern the acceptance of the requested resignation of the Commissioner of Labor Statistics three months prior to the expiration of his statutory term of office, because this termination under these circumstances represents a sharp break with the long-established tradition that this position has not been regarded as a political appointment;
4. that it is most important, if further impairment of the credibility of the Bureau of Labor Statistics is to be avoided, that the new Commissioner be a person with the highest professional qualifications and objectivity;
5. that it is desirable that the decision to discontinue press briefings by the Bureau of Labor Statistics technical personnel should be carefully reconsidered;
6. that nothing in this resolution should be construed to indicate that this Association questions the integrity of the preparation of BLS figures.

Signed by: Benjamin Aaron, President, 1972; Douglas Soutar, President, 1973; David Johnson, Secretary-Treasurer.

Chairman PROXMIER. Mr. Ruggles, proceed.

STATEMENT OF RICHARD RUGGLES, PROFESSOR OF ECONOMICS, YALE UNIVERSITY

Mr. RUGGLES. It is particularly appropriate that the Joint Economic Committee undertake a full-scale study of Federal statistical programs at the present time. The need for accurate and meaningful statistics becomes apparent when the state of the economy is such that economic policy occupies center stage. Much of the development of our present statistical system can be traced to the economic traumas of the great depression and economic mobilization for World War II. Perhaps the contribution to statistics by those in charge of economic policy for the past 5 years has been to make obvious the need for a better understanding of the process of inflation and what should be done about it.

From the point of view of the Federal statistical system itself, the most important issue is that of maintaining high standards of statistical competence at all levels in the staffs of the statistical agencies, in order to assure a concern for accuracy and high technical standards in statistics as well as independence from strong partisan political involvement. The morale of Government employees who constitute a highly trained and experienced staff is at stake. Losses in highly valued staff have unfortunately already occurred in important Government

agencies, and it is difficult for many Federal agencies to attract qualified new personnel. Public confidence in the Federal statistical system has also been shaken. Many of the most prestigious professional and research organizations have publicly expressed their alarm at the lack of professional qualifications of recent appointments to high statistical positions in the Federal Government. I share their concern. It is to be hoped that the Congress can take actions which will halt the erosion which is taking place.

With respect to specific statistical activities which would do most to improve the quality and meaningfulness of economic data, I have three major recommendations. First, an industrial directory should be developed. Second, new data which could provide an index of wage behavior should be collected. Third, existing national accounts data should be extended to provide capital accounts for sectors and industries.

INDUSTRIAL DIRECTORY

The development of an industrial directory as recommended by the President's Commission on Federal Statistics has the greatest potential not only for increasing the quality and comparability of the basic statistics, but also for substantially reducing the amount of data which would need to be collected and processed. One of the disadvantages of a decentralized statistical system like ours is that tasks such as the classification of enterprises and their data into industries, geographic locations, legal forms of organization, and so forth, are duplicated in different agencies, but on the basis of different information so that they produce very different results, and the tabulations of data for different agencies are not comparable.

The President's Commission proposed that the Bureau of the Census obtain the basic data needed to create an industrial directory, keep it up to date, and make it available to Federal Statistical Agencies so they could utilize it in the processing of their data. This would mean that (1) less data would have to be collected by Federal agencies; (2) less classification and processing effort would be required; and (3) greater comparability would result from the statistical data produced by different government agencies.

The President's Commission urged that such an industrial directory should operate "under strict rules of confidentiality" and the Bureau of the Census should see to it "that it is not disclosed outside the statistical agencies it is supposed to serve." I would like to suggest that surrounding the industrial directory with such secrecy is a grave error. Information about the name, address, and type of activity of a business establishment should be in the public domain, just as births, marriages, deaths, and ownership of property are also public records. By making the industrial directory an open public record, no legitimate privacy is lost, and the openness of our society would be increased.

WAGE INDEX

My second recommendation concerns wage data. It is unfortunately true that the information now available on the behavior of wages is so deficient that it is not possible to use it to develop reasonable economic policies to deal with the problem of wage behavior and inflation.

Average hourly earnings are now used as the chief measure of wage behavior. They are derived by dividing wage bills by man-hours, and efforts are made to adjust the data for overtime payments and inter-industry shifts. Nevertheless, the resulting measurements do reflect changes in the labor mix. In periods of economic recovery the change in labor mix resulting from the increased employment of less skilled and lower paid workers results in an understatement of wage changes, and conversely in periods of economic recession the change in mix resulting from laying off less skilled and less senior workers results in an overstatement of wage changes. Such biases are very important when the questions of changes in wage behavior are central to the analysis of inflation and its control.

Efforts are now underway in the Bureau of Labor Statistics to develop an improved wage index. Unfortunately, the approach is still that of trying to define industrial and occupational groups for which wage payments and man-hours are to be obtained. One of the major ways in which wage changes take place is through the reclassification of personnel into different job classifications. In times of labor shortages, less qualified employees obtain higher job classifications, and in times of easy labor supply, low-paying jobs are often filled with over-qualified personnel. The method of measuring the wage index proposed by the Bureau of Labor Statistics would completely ignore such phenomena, and would thus result in misleading measurements. A person who is laid off from one job and finds it necessary to accept a lower-paying job would not be reported by the BLS method as having had any reduction in his wage rate.

It is indeed strange that the Bureau of Labor Statistics, which has been a pioneer in the development of the Consumer Price Index using specification pricing on an outlet basis, should not have applied a similar technique to the measurement of a wage index. It would in fact be quite possible to obtain information on wage payments and hours for specific individuals in given establishments at different periods of time. The calculation of the wage index would, as in the case of the Consumer Price Index, take place at the level of the individual observation.

Thus the change in each individual's wages over a period of time would be recorded, and these changes combined into a wage index which would not be influenced by changes in the wage mix. This method does require obtaining data on individual workers overtime, and it would even be desirable to follow workers when they change jobs. It may be argued that due to increased experience, on-the-job training, and seniority, specific individuals will receive wage increases which reflect their changed qualifications. This is true, and in many ways resembles the quality problem which is encountered in the collection of price information on consumer products. But with a large enough cohort of workers such a lifetime progression of wage increases can be taken into account somewhat more easily than can changes in the quality of consumer goods.

What is being suggested here is that panel data on workers be obtained to provide the basis for a wage index. To the extent that data relating to both the establishment in which the worker works and his social and demographic characteristics can be obtained, our understanding of wage behavior will be greatly enhanced. On the one hand, we need to know the dynamics of wage changes: how they relate to the

productivity change taking place in the system, the profitability of enterprises, and the role of unions. On the other hand, it is important to know the effect of race and sex discrimination and the importance of education. It might well be that supplementary information obtained for social security records which are similar to the continuous work history files would be a better way to obtain such vital information than the more traditional Current Population Survey which is used as the basis for unemployment statistics.

CAPITAL ACCOUNTS FOR SECTORS AND INDUSTRIES

Finally, my last point is that the usefulness of the national accounts would be greatly enhanced if capital accounts were developed for sectors and industries. The national income accounts do represent the greatest achievement of the Federal statistical system in the last three decades. They provide a comprehensive yet detailed picture of the operation of the economy, showing the productive activity of different industrial sectors, the role of the government in taxing and spending, the income and expenditure of households, and the relation of all these sectors to foreign trade, saving, and investment. The great advantage of the national accounts is that they do provide a consistent set of information which permits the construction of major economic aggregates directly related to policy objectives.

It should be emphasized, however, that the present national accounts are primarily concerned with income flows, and do not provide detailed information on the capital accounts for sectors and industries. In analyzing the economical growth which is taking place in the system, it is important to know in which sectors and industries investment is taking place, and how such investment relates to existing capital stock. The flow of funds accounts produced by the Federal Reserve Board are quite useful in this connection, but unfortunately they are not completely integrated with the national income accounts so that they can provide the type of detailed capital accounts information needed for the sector and industry classifications of the national accounts.

Chairman PROXMIRE. Thank you, Mr. Ruggles.

Gentlemen, these are very, very helpful statements. I want to come right to that point that is bothering me and I am sure is bothering many people in the country.

We have just gone through a tragic experience. Of course, we are going through it right now. Right at this moment, another committee is holding hearings on the Watergate problem. And we know that in the last year or so there has been an attempt to burglarize files by top public officials, to steal records from a psychiatrist's office, to damage the position of a Presidential candidate by fabricating letters, all in the interests of achieving power and winning an election.

One way in which an election might very well be won under difficult circumstances by an incumbent administration without hurting anybody, at least, without hurting anybody directly, without stealing anything, without any kidnapping or blackmail or anything of the kind, is to rig the statistics. If in August and September before an election we were told, the whole Nation was told, that the unemployment situation is improving, that prices are moderating, this obviously could have a very profound effect. It could literally change millions of votes. It could win an election.

Now, this may seem to many people to be utterly fanciful and I hope and pray it is.

I would like to ask you as professional economists to indicate whether this is possible in your view, and if it is possible, what safeguards we might be able to introduce by law which would prevent it being possible and give us the greatest possible assurance that it couldn't take place.

We assume that things are going to be run without these difficulties. I can recall telling a college coach that one thing I was sure about was that they will never rig a college football game. He said what do you mean? That is the easiest thing to do, much easier than a basketball game or baseball game. All you have to do is fix the quarterback. In any kind of close game, he throws an interception in the flat at the right time and that is the ball game.

For that reason I am asking you gentlemen who are so well informed about our statistical operation if there is a way of rigging statistics, critical statistics such as measuring prices and measuring unemployment and what we can do about it if there is.

Mr. DUNCAN, would you like to start off?

Mr. DUNCAN. Well, I think the main response is that under the present system—in terms of the historical record—professional statisticians have been running the agencies and professional statisticians are doing the work with a close review of advisory committees that also involves professionals. Under this system you certainly minimize any possibility of manipulating the statistics. In the course of our committee investigations in the last couple of years we have not discovered any evidence whatsoever of tampering with the data.

I think that the gray area in the past has been the interpretation of the data. Now, what you are suggesting is a much more dramatic type of situation where the actual raw materials are massaged so they come out with a different result than the survey itself would yield.

Chairman PROXMIRE. Let me ask, how many people would have to be in on this kind of action?

Mr. DUNCAN. I don't know. I am not intimately familiar with the strength of each of the agencies; hence I couldn't make a direct comment. I would think it would be fairly difficult to do unless you obtained control of everything running through the computer in the back room, as was the case in Equity Funding Corp.

Chairman PROXMIRE. That is right. That Equity Funding experience is a good example. So much is at stake here and, as I say, from a moral and ethical standpoint, while it would be a frightful, terribly unethical, improper thing to do, it doesn't have some of the elements of burglarizing and forced entry, and so forth, the incredible events that have taken place.

Mr. DUNCAN. You would have to have a reasonably wide operation as in the case of Equity Funding.

Chairman PROXMIRE. Involving what?

Mr. DUNCAN. Involving large numbers of people. You have to deal with the raw survey results that are coming out. You would have to make sure those data were coded in a manner so that, when they were analyzed statistically, the biases that were introduced would not overly alarm people or surprise people in terms of past trends and result. It would really require a fairly sophisticated approach.

Chairman PROXMIRE. I think it was Mr. Killingsworth who gave an example of the drop in the unemployment figures by 6 percent which was actually—

Mr. KILLINGSWORTH. Six-tenths of a percent.

Chairman PROXMIRE. I beg your pardon. Quite a difference. Six-tenths of a percent which was later corrected to three-tenths of a percent. And that would be sufficiently dramatic if it were, say, an increase compared to a decrease so that it could have a serious effect on people's feeling and judgment about the success or failure of an administration's economic program.

In your view, Mr. Killingsworth, would this kind of interpretation, favorable interpretation to an administration in office, be possible, say, in the months before the election, in say the September statistics out in October?

Mr. KILLINGSWORTH. I would agree with Mr. Duncan that actually "cooking" the numbers is an unlikely development simply because there would be a large number of people that would find out about it and particularly with the alertness of the press corps these days—

Chairman PROXMIRE. Well, they are very alert in some respects. I am not sure how much attention any of us really pays to the statistical goings-on. We have some very fine people who look into it but—go ahead. I would like to ask you, all three of you, and I want to get Mr. Ruggles' reaction, too, but I would like all three of you when you correct your remarks to add anything you would like to add as to the danger of this and the possibilities of it and what would have to be done to achieve it, and so forth.

Mr. KILLINGSWORTH. I wanted to make the observation that it seems to me the real danger lies in a somewhat different direction.

Chairman PROXMIRE. All right. Fine.

Mr. KILLINGSWORTH. In this sense: Twice in the last 2 years we have had political figures in the administration holding press conferences and suggesting that an increase in the unemployment rate really meant that the unemployment rate was headed downward. This sounds fantastic, but I can give you names and dates.

When there is no press conference held by the—

Chairman PROXMIRE. We would like to have those names and dates, incidentally.

Mr. KILLINGSWORTH. On April 2, 1971, BLS announced that the unemployment rate for March was 6 percent up from 5.8 percent in February. Ronald L. Ziegler said that the figures "substantiates that unemployment is on a downward trend." On August 6, 1971, BLS reported that the July rate was 5.8 percent, up from the 5.6 percent rate of June. George P. Shultz said that, because of the statistical aberration in June, "we do see a downward movement."

Well, both men were quite wrong in the sense that the unemployment rate remained at around 6 percent for many months after their comments were made. But close to an election, when there is no opportunity for any objective statement concerning the significance of the statistics, when the news is blanketed, so to speak, by the press conference of the highly placed political figure, then you have the opportunity of what I would say would come very close to a misrepresentation of the figure.

You can simply make an interpretation that could have a very considerable impact on public opinion and that would produce the kind of result that you were speaking about.

Chairman PROXMIRE. Well, I would be far more fearful of cooking the figures because interpretation after all in a Presidential campaign is bound to be challenged.

The opposition Presidential nominee and his reporters would pick up something like that and I think run with it to great effect, but cooking the figures, of course, would really do it.

Mr. Ruggles.

Mr. RUGGLES. I agree that doublespeak is probably the major danger, but I have noticed another type of behavior which does not constitute cooking the figures, but rather results in abolishing statistical programs if they do not produce politically desirable information. There has, for example, been a tendency to stop publishing poverty statistics and to delay the development of social indicators because they might indicate an increase in poverty or would not show the kind of progress that we would like to report in a given administration, and it is much easier to make glowing, optimistic statements when information doesn't exist than when contradictory information does exist. Therefore, degradation of the statistical system is to the advantage of people who are making political statements.

Similarly, when new data come in which indicate substantial revisions are necessary, such revisions may not be made. I suspect in a sense this comes close to what you are suggesting. In developing preliminary estimates there is always considerable discretion as to how the estimates are to be made and therefore, given human nature, they may be made on a politically favorable basis. In view of this, it is quite possible that there would be some political resistance to revision, rationalized on the grounds that sufficient information has not yet come in or that revisions would destroy public confidence in the statistics and perhaps should not be made at all.

The timing and the release of information is also very important; if information is delayed long enough, it eventually is tantamount to suppression of information.

So I would suggest that there is a considerable amount of political maneuvering room, and that the statistical system is not completely objective. However, I do agree that it is not really feasible to cook the figures systematically or to fabricate a whole new system of statistics. I remember that during World War II, when foreign countries were presumably putting out all kinds of propaganda, the statistical yearbooks of the German and Russian statistical offices turned out to be quite accurate, but that again is because it is very difficult to control the operations of a large number of people who are organized to produce a systematic output.

Chairman PROXMIRE. I am very reassured by this because I have great faith in you gentlemen. We asked you to be with us because you are among the most competent experts in this area and I don't mean to persist rudely at all, but I think there is a tendency on the part of all of us to reassure each other and reassure ourselves and not to look at the system itself and say now, if this were to be cooked or rigged, however you want to put it, how could you do it? Exactly who would

be the people who would have to make the changes and how many? Would it be 10 people or 50 people or 100 people? Could it be done maybe by one or two people? It is the kind of thing I think that very few of us have looked at because we just assumed it wouldn't be done and maybe it wouldn't. Certainly there is no evidence that it has ever been done before or anybody has even thought about doing it. But I think the atmosphere we are in now, with the great concern about the credibility of Government, and as I say, with so much at stake in this kind of action, it is worth our time to sit down and spend several hours thinking about how a system like this could be rigged so that we can develop our own safeguards, make sure that it won't happen and that there is some trigger that would disclose to us what was going on.

Mr. DUNCAN. I think that type of investigation would be useful and I think specifically in terms of our report, we talk about the need to avoid even the appearance of any manipulation.

Chairman PROXMIRE. Right.

Mr. DUNCAN. By undertaking an examination of examining this issue; determining how many people are involved, and what safeguards could be inserted into that system, the result would be to reduce even the suggestion of possibilities such as we have been talking about this morning.

Chairman PROXMIRE. My time is up. I will be back.

Congressman CONABLE.

Representative CONABLE. Thank you very much.

I am interested in how much pluralism there is in the system. I assume there is some pluralism—that the statistics themselves, that all statistics bear a relation to each other and therefore if one particular set of statistics takes off an erratic direction it is a warning for any professional who looks at it—if it seems to be losing its relationship to the other sets of statistics which make up part of the total complex of measurement that this society uses.

I am also interested in to what extent there is any corroboration of Government statistics or are they accepted on their face? It seems to me that there must be related statistics available from other sources which would also trigger concern and resistance to falsify Government statistics. Is that so or are we—does everything start at the Government level in every case and all our complex statistical usage builds on that one building block initially?

Mr. DUNCAN. Well, there are certainly independent sources of data. The case immediately comes to mind which has received some attention just in the last couple of weeks is the McGraw-Hill survey of plans for plant equipment spending which is concerned with the same kind of information that is the focus of the Securities and Exchange Commission survey of plant equipment spending expectations.

There are economists who devote significant numbers of man-hours each year to reconciling the differences between those two series and to analyzing the performance of those series in the business cycle. For example, in a recovery part of the business cycle the McGraw-Hill series tends to understate expenditures because businessmen tend to understate expenditures during that phase. Likewise they tend to overstate planned expenditures as the cycle goes downward because businessmen make the revisions in expenditures later on. These are anticipations of what they plan to do. So there are opportunities for reconciliation.

I guess the concern posed by that first question was in a very short-term sense and under the high pressure of immediate policymaking; such as the current situation where a reexamination of phase III is underway. Economists are continually obtaining conflicting signals. Working out all of the inconsistencies and contradictions is a complex task—it requires quite a bit of energy.

Mr. KILLINGSWORTH. Could I respond to that, Congressman? It seems to me there is some difficulty in tying in the behavior of the unemployment rate with some of the other indicators, at least over a longer period of time. The relationships have been changing in the last 10 or 15 years. For some time we—

Representative CONABLE. Well, our job mix has been changing too.

Mr. KILLINGSWORTH. That is true. The economists have been talking about the Phillips curve, an assumed relationship between the rate of unemployment and the rate of price change. Originally it was wage change but we broadened it out. But today we have an unemployment rate of 5 percent, which is fairly high by recent standards, at least, and an extremely high rate of inflation, a much higher rate of inflation than would have been predicted by some of the earlier formulations of this so-called Phillips curve.

There have been other puzzling developments with regard to the relationship between the unemployment rate and some of the other indicators of economic activity. I think it is fair to say we have never—at least in the last couple of decades—we have not had a situation in which most of the economic indicators indicate a very rapid rate of economic growth, a very high level of economic activity, and still a very high rate of unemployment.

Representative CONABLE. So the Government could have changed the statistics on unemployment and nobody would have been terribly surprised or worried about it because it would have followed the pattern of the past much better than the actual statistics have demonstrated. Is that right?

Mr. KILLINGSWORTH. Well, the discrepancy would not be glaring—

Representative CONABLE. Would not have been as glaring?

Mr. KILLINGSWORTH [continuing]. Or obvious because we have had these changing relationships. In other words, it would not stick out like a sore thumb, so to speak.

Representative CONABLE. Well, I assume monkeying with the computer is not enough either to hoodwink the public because the input into the computer is sufficiently known by professional statisticians so that they have some idea on a historical basis of what that input is going to generate in the way of statistical results.

Mr. RUGGLES. I would like to speak to that because I think this does again come to the problems of openness.

One of the very encouraging developments in the openness of the statistical system in recent years has been the release by the Government of some of the basic data on which the published data are based. For example, the current population surveys are now becoming available in their original questionnaire form for economists and other people to utilize. These are the raw data on which the published unemployment statistics are based. In order to cook the unemployment statistics, it would be necessary to alter systematically the basic data for 55,000 cases per month, and this is a far more complex job than just pro-

graming the computer to produce results that are inconsistent with the basic data.

Representative CONABLE. Let me ask you gentlemen, is there any role for the nonstatistician in this governmental process? Some of the things that have occurred—that have been matters of concern—could as easily be ascribed to management deficiencies as to statistical deficiencies or professional statistical capability. Your statements have indicated great concern that we always have highly competent statisticians performing the functions of the bureaus that we are talking about. Now, how about that?

Mr. KILLINGSWORTH. I would certainly respond that there is a definite need for the nonstatistician. The Department of Labor, in particular the Bureau of Labor Statistics, does have advisory committees. Those advisory committees include some nonstatisticians and it is my impression that they have performed a useful function and they have had influence over the years.

Representative CONABLE. But there are some top jobs that should be held obviously by professional statisticians. I guess what you are saying is not that there is no role for the nonstatistician, is that correct?

Mr. KILLINGSWORTH. I think the role of the nonstatistician is more in the area of advice and general influence on policy rather than the administrative position of, let's say, Commissioner, or the top jobs of Assistant Commissioners working directly under the Commissioner.

Representative CONABLE. You have investigated considerable—

Mr. DUNCAN. In terms of our report our joint committee devoted considerable energy to that question specifically and the basic point we were trying to make was that the statistical agency head should be divorced and separate from the policy statements. Let's take the Department of Commerce, for example. There is an Assistant Secretary for Economic Policy. It is appropriate for him to offer political and lay interpretations of the data as a part of his responsibility in office. It is the mixing together of those political interpretations and statistical interpretations that we were concerned about. We felt the way to deal with that issue is to separate clearly the statistical agency from the political administrative unit.

Representative CONABLE. Separate the news from the editorial.

Mr. DUNCAN. That is right. A very clear kind of distinction.

Representative CONABLE. Now, one thing, you have all stressed the importance of the credibility of these figures and I think you all have at least implied some concern about their accuracy. Have there been any substantive areas you can point to indicating that perhaps a lack of quality is being reflected in the ultimate figures that are coming down now or is it all psychological? Is it all a concern about the people who are doing the work and their professional competence—is that the message you want to bring to us today, rather than any conclusion on your part that this lack of professional competence has been reflected in the statistics with which you are working?

Mr. DUNCAN. Our committee very definitely addressed this from the standpoint that we have no evidence in the wide context of our investigation that there has been any tampering with the data specifically. As Mr. Killingsworth pointed out, you can look, for example, to the reorganization of BLS and come up with a reasonable management rationale for the change.

I think what has happened, however, is that while each event is plausible in and of itself, there is increasing frequency in these matters and they have all been falling on precisely the same side of the scale; namely, to remove the professional and to insert people who seemingly have more political reason for being there than professional qualifications, and it is that drift that leads to a concern at this point in time.

Mr. KILLINGSWORTH. There is one episode that should not be over-emphasized but it might be indicative and certainly it hasn't improved the credibility of the Bureau of Labor Statistics. They had been putting out figures on spendable earnings for some time. There is fairly general agreement among technicians that this is a quite unsatisfactory series. It has some rather glaring weaknesses. It has been discussed within the Bureau. A decision was apparently made many months ago to drop this series because of its weaknesses. Then it turned up and started looking good and it has continued, is still being released.

Representative CONABLE. Thank you. My time is up, Mr. Chairman.

Chairman PROXMIER. I am going to ask the committee to commission a study on how to absolutely safeguard the statistics, especially the unemployment and placement statistics, so politically, sensitive, but all the statistics against any cooking and rigging. I think we ought to have an in-depth study on that and as far as I know I have been checking with the staff—I don't think there is a law against it. So you could be in a peculiar position of doing this and winning the election not even breaking the law.

I would like to ask you, Mr. Duncan, you make a very strong point that the heads of major statistical organizations should be career men. I am sure that is necessary but I think we all agree they should be professionally qualified, whether they are career men or not. And statement on trying to determine on the basis of this whether Mr. Barabba and Mr. Failor would qualify, on that basis, they seem—I don't want to be unfair to them—to get between zero and 25 percent.

On the first point, membership in a professional statistical association is for at least 5 years. I don't know if these men have that membership. I would be astonished if they did. I could be wrong. If they don't, they would be zero.

The second point is the ability to make new contributions to knowledge in the field of statistics or subject areas of the agency involved. They may be able to. I think that is questionable in view of their lack of professional qualifications.

The third point is national recognition in the professional field. Obviously they don't qualify.

Fourth point, demonstrated professional achievement. They don't qualify there. They may be very fine men, very able men, very successful men but they just do not qualify according to your criteria. They don't seem to. Would you agree with that?

Mr. DUNCAN. Well, I think I should say first our committee did not evaluate individuals.

Chairman PROXMIER. I am not saying that was applied personally at all. I am asking you to do it now.

Mr. DUNCAN. What you have done is precisely what we wanted to have done. We want to lift up these criteria and let the confirming committees make the judgments. We actually released our report in

draft form to administrative heads so that our criteria would be available during the search for what was obviously happening because the resignations of a number of people had been accepted. I prefer really not to comment today on individuals as such because I don't have the facts on their individual backgrounds. I do think, however, that that is precisely why we put our report together and we tried to get it out early so it would be available to those who were doing the selection for the administration and particularly now they are available to the Congress as it reviews the qualifications of the appointees.

Chairman PROXMIRE. Now, Mr. Killingsworth, I gather you believe that Commissioner Moore should not have resigned. Recently we had in another committee a group of nominees of the President—for independent agencies—and I ask each of them if they would, if requested sign an undated letter of resignation, give it to the President, any President, not talking just of President Nixon, any President, and enable him to use it when he wished to do so, and after considerable discussion in every case they agreed they would not provide that, that they would not give the President an opportunity when they have a set term of office when they represent an independent agency to resign.

Do you think that kind of requirement, rather, that kind of position should be taken by the heads of the Bureau of Labor Statistics?

Mr. KILLINGSWORTH. I would certainly agree with that position, yes.

Chairman PROXMIRE. And if that had been the position taken by Mr. Moore—of course, it is very difficult for him; everybody else submits a letter of resignation—then he would not have been in a position to have been dismissed at least in the way he was by the President.

Mr. KILLINGSWORTH. I think that is correct. I think that he could have resisted the request. I know that in some prior changes of administration such requests have been made to some people who have declined.

Chairman PROXMIRE. Now, isn't that a way, at least, one way, perhaps a small way but an important way, of attempting to establish at least some degree of independence on the part of the head of the Bureau of Labor Statistics?

Mr. KILLINGSWORTH. Yes.

Chairman PROXMIRE. So he cannot be browbeaten and pressured?

Mr. KILLINGSWORTH. Yes.

Chairman PROXMIRE. So he would be less likely to be browbeaten?

Mr. KILLINGSWORTH. I am not sure that by itself is sufficient.

Chairman PROXMIRE. No. As I say it is a modest way but it is one of a series of things, perhaps.

Mr. KILLINGSWORTH. It certainly is a point worth making.

Chairman PROXMIRE. Now, one of our witnesses tomorrow is Secretary of Commerce Dent. He held a press conference on recent trade figures, ahead of the release time and it is our understanding that on these statistics there should be a period between the time they are released and any political comment. At least that has been true in many areas.

Mr. DUNCAN. 1 hour delay.

Chairman PROXMIRE. I was wrong. I am corrected. You are right. I was misinformed.

Mr. DUNCAN. And the Office of Management and Budget has been trying to keep a reasonable tally on the extent to which people con-

form to that. In our report we underscored the importance of reports of that type of operation.

Chairman PROXMIRE. I misunderstood. The suggestion made to me by the staff is we should have a 24-hour rule instead of a 1-hour rule. Do you think that would be a good idea?

Mr. DUNCAN. I think that would be very difficult to enforce. As soon as the numbers do become available the reporter is not going to wait 24 hours to write his story. He is going to call——

Chairman PROXMIRE. Well, is 1 hour workable?

Mr. DUNCAN. I think 1 hour is workable in the sense that it definitely makes a distinction between the two releases. It doesn't let them be done at the same time and it does require, therefore, that a purely statistical release be prepared. The important thing, I think, is to have a purely statistical release.

We further have recommended that the news release identify the principal statistician in the agency who is responsible for the numbers—rather than a public relations official or some other type of person—so that the press can have access to the details of the technicalities involved.

Chairman PROXMIRE. I understand that Mr. Dent released his statement the same time that the technical statement was released.

Mr. DUNCAN. That is in violation of a set of guidelines that has been established—supposedly by the White House and certainly by OMB.

Mr. KILLINGSWORTH. Another point along that line, Senator, is that there has been an effort to establish release dates long in advance, particularly for the unemployment figures and the price figures, and I would presume for some of these other releases as well. There have been some instances in which those release dates have not been observed as far as the unemployment figure is concerned. I can think of at least two occasions when political figures in the Administration leaked information concerning the unemployment rate prior to this officially established release date.

Now, of course, the whole purpose of the release date is to prevent manipulation and early announcement for some kinds of political advantage.

Chairman PROXMIRE. You referred to the displacement or firing of Commissioner Moore and I did point out that the immediate basis, of course, as you suggested, was that his letter of resignation was acted on. Do you have any other suggestions? Mr. Killingsworth, you are the one who brought it up. Do any of you gentlemen have any suggestion as to how we, in Congress, can prevent that happening again or provide greater independence for the head of the Bureau of Labor Statistics? We had this long fine record of Ewan Clague who served Democrats and Republicans for more than 20 years with distinction.

Mr. KILLINGSWORTH. He served under five Presidents.

Chairman PROXMIRE. That is right. How can we, in Congress, buttress this kind of a situation? Maybe a longer term? You have, after all, the Governors of the Federal Reserve Board with 14 years. The Comptroller General has 15 years. Both offices have served the country well.

Mr. KILLINGSWORTH. It seems to me that that certainly would be one thing that is worthy of consideration.

Representative CONABLE. Certainly more than four.

Chairman PROXMIRE. Or even four scattered so that they wouldn't immediately happen right after election period, would have some overlap possibilities.

Mr. KILLINGSWORTH. A 5-year term certainly would have a real advantage, I think. The Commissioner of the Bureau of Labor Statistics has a 4-year term which does tend to make it coincide with the Presidential term and possibly the change of administrations.

Chairman PROXMIRE. Mr. Killingsworth, you note that some developments normally called to attention in monthly employment reports have been missing lately. Can you give us some examples?

Mr. KILLINGSWORTH. One in particular. There was a period of time during the midpart of 1972 when the labor force was growing at a very rapid rate and there was some emphasis on that in the press releases and in the political commentary. Then, in November 1972, this was reversed. There was a rather sharp decline in the unemployment rate, from 5.5 percent to 5.2 percent, but that was accompanied by a decrease of 240,000 in the size of the labor force. Rather than the previous rapid rate of increase there was a very large absolute decrease in the number of people in the labor force.

There was no comment whatever on that point in any of the news stories or any of the press conferences. It was a fact which you could ferret out from the release if you went back to the beginning of it and even there I think that it was quite ambiguously stated and you had to dig way back in the tables to be sure that there was a very substantial decline in the absolute size of the civilian labor force.

Chairman PROXMIRE. Now, my time is up but let me just ask about that. What could we do about this kind of situation? One thing we tried to do is have a hearing before this committee. As you know, every month the unemployment figures were out, the day they were out we would have a hearing and we tried to bring out in the colloquy some of these things and it was covered to some extent by the press and public and picked up but the big news obviously and for obvious reasons was the statement issued by the Chairman of the Council of Economic Advisers and other people uptown.

Do you have any idea what we can do to provide for a broader interpretation—a challenging interpretation? One way is to return to the press conferences. We have been bleeding for that. That is the reason we had 20 consecutive hearings in 20 consecutive months before this committee. It didn't work. We didn't get a return to the press conference.

Do you have any other ideas of what we can do to provide better balance and interpretation so the press can have these interpretations challenged and have a broader view to present to the public?

Mr. KILLINGSWORTH. I see very little alternative to this reinstatement of the press conference by the BLS technicians. It seems to me that what we are dealing with here is to a considerable extent a kind of intangible problem within the Bureau of Labor Statistics. I feel on the basis of many conversations with many people in that agency that an attitude of great caution—I would say excessive caution—in reaction to this series of events.

Now, how do you change that? I understand—I was up to my ears in final exams yesterday and I didn't get the news that a new Com-

missioner has just been nominated for the Bureau of Labor Statistics. It seems to me, in the confirmation hearings on that appointment, some of these matters could very well be explored and the feeling of the Senate could be made quite clear to the Commissioner and perhaps, through him, to members of the administration—a feeling that some very definite effort should be made to reinstate this feeling of independence, this willingness to be completely honest and open about the interpretation of the statistics.

I think that organizational arrangements are perhaps desirable but they are certainly not sufficient. What we need is the confidence of the BLS people, the professional people, that they are performing a function that is recognized as a proper function for the professionals who are developing these statistics. And they need to have the confidence that if some political figure takes exception to a statement that this change probably is overstated, they will get protection. It takes a willingness to stand up.

You know, we have a somewhat similar problem in the universities and I think that the question of leadership is crucial. If there is a person in the position of leadership who gives his people confidence that he will stand behind them if they are attacked for an honest professional judgment, then I think that makes a great deal of difference. It would certainly be highly appropriate, I would feel, for the Senate to inquire into the views of the nominee on this particular matter.

Mr. DUNCAN. I would personally like to add a suggestion to this committee. In talking with a number of representatives of the press who have attended press conferences in the past, they pointed out to me that frequently they themselves don't have the wherewithal to ask the technical kinds of questions that are really helpful; questions which they heard when you were conducting your own press conferences. Your staff was asking questions or stimulating questions which helped the reporters along. So a function that your committee could provide would be to have a staff input in terms of questioning at the press conferences themselves to make sure the broader technical issues are lifted up. It requires a highly specialized person to ask these questions.

Chairman PROXMIRE. Get a press card for our staff people.

Congressman CONABLE.

Representative CONABLE. Let me ask you about this. You gentlemen obviously don't reply on the press conference for your interpretation of the statistics that are being put out. It is of some interest to the press but I am sure that while the press may be less confident as a result of a loss of the interpretive opportunity in the press conference, statisticians themselves have no reason to be less confident.

What I would like to ask is this: Have the Federal statistical agencies been less forthcoming to your inquiries during the past 4 years? I think Mr. Killingsworth has indicated that there is perhaps a loss of confidence on the part of staff members in the statistical agencies as a result of the insecurity of change, personnel change, and otherwise. Has this made them less forthcoming to statisticians who after all are the ones who must have confidence in these statistics if they are ultimately to be appropriately interpreted?

Mr. DUNCAN. In our report we really dealt at three levels. Our overall concern was to assure public confidence in the statistical system

at all three levels; then, of these recommendations, I primarily lifted out one of them for your today. Let me list the three levels. One, building the peer group confidence in the statistical community by emphasizing the professional capabilities of the agency heads. Now, that is the one we have been dealing with in large part in the formal testimony which I offered and clearly the people in the peer group do not rely on the press conference for their point of access; that relates to the second level that we addressed.

The second level is improving the understanding of the working press by providing easy access to expert counsel. In terms of maintaining public confidence, which is our overall objective, peer group confidence is one part. But the working press is the next level of access of the general public to the statistics, and therefore the press conference type of consideration is very important at that level.

And then third, which is the confidence factor that Mr. Killingsworth was talking about, we are talking about minimizing even the appearance of political pressure which effects the morale of the staff in the agencies themselves and which then has an impact on total public confidence.

So there are really three levels one has to deal with if you talk about total public confidence in the statistical system.

Representative CONABLE. I don't want to get back to this whole argument which has been contracted in this committee. But you understand the press conference itself is an installation subject to some manipulation. So my particular concern is—have statisticians had less access as a result of these changes. The only comment I have heard has been that there is a general loss of confidence on the part of staff members which might result in their being more cautious in their dealings with other members of the statistical fraternity.

Mr. Ruggles.

Mr. RUGGLES. I think it comes back to something you said earlier; namely, that one of the major problems with any statistical system is its ability to change to meet current needs. This has been especially true in this period of inflation.

I think that where our confidence has been shaken is that there are many fewer trained and competent people in the Government now who can be relied upon to adapt and change the system in the way that is needed in order to solve these problems. Many of the people who could have been expected to take the responsibility for doing this have left. New ones have not come along, and there is less independence in those who remain. So we have a feeling that the statistical system is static, it is stagnant, and we aren't getting the answers that we want to the major economic problems, especially to new kinds of economic problems.

Representative CONABLE. In other words, it takes understanding to cope with rigidities which otherwise—

Mr. RUGGLES. That is correct.

Representative CONABLE. Hardening of the arteries.

Mr. RUGGLES. And that is where the system is most vulnerable and where the danger lies. The system may develop rigor mortis, but it will not be seriously violated. It will just become less and less relevant. I think this will be a very serious problem.

Representative CONABLE. I can see how that would be. I am sure you have to have some stability in the statistical field because otherwise you lose comparative opportunities if there is no stability—

Mr. RUGGLES. That is right.

Representative CONABLE [continuing]. In the input that is going into your statistics. But a statistic has meaning only as it reflects change in what is a very dynamic system.

Mr. RUGGLES. That is right.

Representative CONABLE. Social, economic, and otherwise. And so this kind of a compromise has to be worked out with understanding, and I can see what you are saying and I agree with it completely.

I don't have any further questions, Mr. Chairman.

Chairman PROXMIRE. I would like to ask Mr. Ruggles if you would comment, and Mr. Duncan, on Mr. Killingsworth's points that there has been a growing discontent among users, at least a disquietude, concerning the reliabilities of some Federal statistics. Mr. Killingsworth specifically mentioned the measure of unemployment. Do you agree, Mr. Ruggles, and would this apply to statistics other than the unemployment figures?

Mr. RUGGLES. Well, in terms of what I indicated with respect to wages, and, in my comments just a moment ago, I believe that the kinds of information which are coming out do not meet the needs which we are facing at the present time.

Chairman PROXMIRE. No. I am not asking about that. You made a point and made it very well. I am talking about reliability rather than the coverage.

Mr. RUGGLES. Well, we are beginning to realize how unreliable or misleading some major statistical series may be. The unemployment estimates are very much affected by changes in the labor force. Whether specific individuals, such as returning Vietnam veterans, are in the labor force or not is a very subjective question. The definition and measurement of the labor force matters more at this time, perhaps, than it mattered a decade ago, and the fact that little is done to improve our understanding of this situation means that we do distrust the information more than we did before. We are more skeptical of it.

Chairman PROXMIRE. Does this cover not only unemployment but prices and—

Mr. RUGGLES. I would say unemployment, wages, and prices.

Mr. KILLINGSWORTH. May I make just one very small comment. My statement, of course, of course, as I am sure you recognize, Senator, was not intended to reflect at all on the honesty of the measurements. The question is whether we are measuring the right things.

Mr. RUGGLES. Right. I would agree.

Chairman PROXMIRE. Mr. Duncan.

Mr. DUNCAN. We in our committee, of course, did not get into specific series in terms of the technical evaluation of them. However, we did comment in our report on the growth in the support of statistical programs which is a very important direction.

There are, of course, some concerns around specific series. For example, the current controversy over the agricultural census, the controversy around need for a mid-decade census in this time of rapid change. The priorities in the statistical system I think are something

that certainly merit the attention of your committee and they deserve a wide input from users.

Chairman PROXMIRE. Congressional staffs have increasingly poor access to technical advice included but not limited to statistical question. No problems as yet from the Bureau of Labor Statistics but problems with Census, the Office of Management and Budget, the Cost of Living Council. Do you have—do you gentlemen have that same experience or do you know about it?

Mr. DUNCAN. My own experience has been that I haven't had any difficulty getting questions of a technical nature answered in the interests of my research.

Mr. KILLINGSWORTH. My experience is largely with the Bureau of Labor Statistics and I would not say that I have experienced any change in—I have found them very cooperative in their attitudes in the past and I have not noticed any change in that.

Chairman PROXMIRE. Mr. Ruggles.

Mr. RUGGLES. I have not noticed any change in the willingness of the personnel; in their ability to do things; yes.

Chairman PROXMIRE. That is a very interesting comment. You leave us right up in the air. Go right ahead with it.

Mr. RUGGLES. I was referring to the reduction of various programs, and the dropping of various series, sometimes in the name of economy.

Chairman PROXMIRE. Such as?

Mr. RUGGLES. Well, for instance, the P-60 series on the income distribution and the so-called poverty statistics. I believe the rationale was that these statistics were being repaired, I suppose like streets are repaired, all torn up and you can't really use them while they are under repair.

Chairman PROXMIRE. Do you accept that view?

Wouldn't it be possible to continue with a series and then come in with a change without interrupting it?

Mr. RUGGLES. If there had been an aggressive interest in doing something in this area, I think much more progress could have been made.

Chairman PROXMIRE. How about our measure of GNP? Do you think that is adequate in this day and age? Do you think we should try and get greater refinements? Senator Fulbright is more concerned with that—he is a member of this committee and maybe I am asking in his behalf—he feels the GNP is a ridiculously comprehensive system that doesn't really tell us anything about the quality in the improvement of our production, that it includes all kinds of things that are irrelevant to any kind of real economic progress. Is there a way of refining this or improving it?

I realize it does have the great advantage of being a simple, easily understood, comprehensive identification of all economic activity.

Mr. RUGGLES. Well, I am very sympathetic with that view. I think the solution lies not in throwing away the present GNP but in providing additional, more pertinent, and direct information that is focused upon the sort of issues which Senator Fulbright cites. And I think that again an aggressive statistical concern on the part of the administration would have produced work in this area, and again I think that the major problem is the stagnant atmosphere of the statistical system.

Chairman PROXMIRE. Do you gentlemen as professional statisticians who understand so well the limitation of statistics feel there is any way

we can have a supplementary index that would measure the quality of economic growth more satisfactorily, more accurately? After all, to the extent that we increase pollution; that is, that can be considered to be an increase in the GNP. There are so many things that we do which are—no matter how counterproductive or antisocial or destructive they are they represent an increase in the gross national product.

MR. RUGGLES. I would be a little unhappy about any single index of well-being or a giant happiness thermometer.

Representative CONABLE. What about the automobile?

MR. RUGGLES. On the other hand, it is very obvious that many important dimensions needed to appraise the quality of our life are sadly missing from our statistics. We don't really know enough about, for example, the distribution of income in terms of the social and demographic characteristics of the population it changes. We don't know enough about how people are spending their time—their time budgets—what does consume people's time, how does the human expenditure of time relate to mass transport systems, what is happening to leisure? Things of this sort we really do need to know about, but you are not going to get this sort of information from a thermometer of happiness.

Chairman PROXMIRE. I am certainly not asking for that.

MR. RUGGLES. If you are designing a public policy you need a richness of information which we do not currently have.

MR. KILLINGSWORTH. I think, if I could offer just one observation, I think statisticians ought to remember and to teach others that statistics are always simply the shadow of reality. They are not the reality itself. The shadow maybe badly distorted. I think too often we forget that and—

Chairman PROXMIRE. Give us an example.

MR. KILLINGSWORTH. The unemployment figure I think is an example of a shadow of the reality. There are many people who believe that this official unemployment rate, 5 percent, grossly understates the reality, that it diminishes the reality. There is an element of hidden unemployment that has been—

Chairman PROXMIRE. And there are many who feel it overstates it.

MR. KILLINGSWORTH. And there are some indeed who argue that it, although I would say that that is probably a less common reaction than the other one. There are those who state—

Chairman PROXMIRE. Well, certainly my reaction is that it understates it but I think—I have more people who object and say that the 5-percent figure is a gross exaggeration because there are so many people who are—

Representative CONABLE. Voluntarily unemployed.

Chairman PROXMIRE [continuing]. Voluntarily unemployed or who would like to work perhaps if they could get the job but they don't really need it, and so on. Very, very common feeling by lots of people.

MR. KILLINGSWORTH. This I think assumes we are measuring something a little different from what we really are measuring.

Chairman PROXMIRE. Well, what can we do about that, Mr. Killingsworth?

MR. KILLINGSWORTH. My suggestion was to appoint a committee. This obviously has its weaknesses, but I think—

Chairman PROXMIRE. Well, the Gordon committee was a very useful committee.

Mr. KILLINGSWORTH. I was about to say, the Gordon committee appointed a dozen years ago had a very—

Chairman PROXMIRE. You feel it is time for a new Gordon committee?

Mr. KILLINGSWORTH. Precisely.

The Gordon committee had a substantial impact on the labor market statistics and it was mainly to the good. But they were looking at the experience of the preceding decade or two decades. We have had another decade of unusual experience, shall we say, and further development of other kinds of measures, and it seems to me that it would be very fruitful to have a penetrating look at some of the new realities of the labor market and the extent to which they are or are not reflected in the statistical system.

Chairman PROXMIRE. How was the Gordon committee established? Was that a Presidential committee?

Mr. KILLINGSWORTH. It was a Presidential committee.

Chairman PROXMIRE. Then what we should do if we wish to pursue this is write the President and suggest it is time, in view of the lapse of time and our economy changes so rapidly, a committee be appointed and urging him to do that. Do you think that would be the best way we can proceed?

Mr. KILLINGSWORTH. I think that certainly would be necessary. I would judge the suggestion would have a much greater chance of being acted on if the new Commissioner of the Bureau of Labor Statistics strongly supported this recommendation.

Chairman PROXMIRE. It is my understanding the President did appoint some kind of a committee that looked into this 2 years ago.

Mr. KILLINGSWORTH. That looked into—

Chairman PROXMIRE. And it wasn't as comprehensive or as imaginative or as vigorous as it might be. It didn't compare at least in our judgment with the Gordon committee. Maybe it would be time for Congress to do this or try to do it. How do you feel about that?

Mr. KILLINGSWORTH. Well, I think that the particular—

Chairman PROXMIRE. Maybe if we begin to do it the President will do it. One of the reasons—I have got an amendment pending on the floor of the Senate right now to provide for a more effective wage-price control system. I hope the President will take it away from us and go on the air tomorrow night and do it himself. He can do a lot better job. He can do it right away and there is none of the terrible lag when we have to debate in Congress on this kind of thing and it takes months before we get action.

Mr. KILLINGSWORTH. Let me make the obvious point, the method of appointment, the mechanism, is much less important than the caliber of the people you get.

Chairman PROXMIRE. Maybe Congress better do it.

I just have one other question.

As I have already indicated, this committee intends to undertake and introduce a study of the Federal statistical program. In this connection if you gentlemen could give us your views of its format and content. For example, we have given some thought to having prepared some papers on different parts of the program, papers concerned with additional areas to be covered, improvements to be made in existing data, ways of improving dissemination, and who might make the study.

To be precise, I have been very concerned about the fact that we haven't made the changes we should in the economic indicators which is our responsibility. I think it is a very helpful amount of data but I am inclined to think that we just accept it and don't modify it and improve it and change it the way we should. So, would each of you gentlemen give me your views on how we might proceed with a study of the statistical program and that would be it as far as I am concerned.

Mr. DUNCAN. I think the comment that is perhaps most important relates to the one we just made around the Gordon committee type of situation. I think the key is the type of personnel that you call upon to make the input to your study and I would simply urge that in the construction of that activity that, in addition to the professional academic input, you obtain some input from the user communities.

For example, I would think it would be helpful to have the press perspective more adequately examined than perhaps it has been considered in the past. I think certainly that business and other uses of data can provide a very valuable input. I simply urge you go in that direction as well as to the technical and academic communities.

Chairman PROXMIRE. Mr. Killingsworth.

Mr. KILLINGSWORTH. I don't think that I have anything in particular to add except to emphasize my feeling which I tried to reflect a little in my statement that what—the thing that is very difficult to get is a reexamination of concepts that have been established for quite a long time in the statistical series. There is a strong argument against developing a new approach which makes your new series noncomparable. That is a bane of the statistician.

On the other hand, we decided 25 or more years ago that we were going to measure objective behavior as reported by the people who were being interviewed by the censustaker when we are reporting on labor markets—what is going on in the labor market.

I think that—I would urge that there is real need for a reconsideration of some of these basic conceptual approaches to the labor market data.

Chairman PROXMIRE. Mr. Ruggles.

Mr. RUGGLES. I would have some concern about relying purely upon Presidential commissions at this time. I think part of the difficulty in using this device is related to the current political climate. It was for this reason that the President's Commission on the Federal Statistical System was not as successful as it might have been. I feel that the work that needs to be done is of a more technical nature. It would require staff and staff work, and should be undertaken by the Congress itself because at the present time the concern of professional economists and statisticians with the Federal statistical system is such that they do not feel not even if a Presidential commission were created and did its job, it would be listened to. And so I would express some concern as to the sponsorship under which such work would be done.

Chairman PROXMIRE. When you correct your remarks, would each of you suggest people who might be capable of doing the studies in your judgment? It would be very helpful to us.

The subcommittee stands in recess until tomorrow morning at 10 o'clock when we reconvene in this room to hear Secretary of Commerce Dent and other witnesses.

Thank you very, very much. Excellent job. Most helpful.

[Whereupon, at 11:55 a.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, June 14, 1973.]

FEDERAL STATISTICAL PROGRAMS

THURSDAY, JUNE 14, 1973

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON THE PRIORITIES AND
ECONOMY IN GOVERNMENT OF THE
JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room S-407, the Capitol Building, Hon. William Proxmire (chairman of the subcommittee) presiding.

Present: Senator Proxmire and Representative Conable.

Also present: John R. Stark, executive director; Loughlin F. McHugh, senior economist; Lucy A. Falcone, L. Douglas Lee, and Courtenay M. Slater, professional staff members; and Walter B. Laessig, minority counsel.

OPENING STATEMENT OF CHAIRMAN PROXMIRE

Chairman PROXMIRE. The subcommittee will come to order.

Mr. Secretary, we welcome you to this subcommittee's hearings on the status of the Federal statistical program. I just discovered that Secretary Dent and I are old friends. I haven't seen him for many, many years, but I knew him, what, 25—27, 28 years ago, a long time ago.

Secretary DENT. Yes, sir.

Chairman PROXMIRE. As the head of one of the major agencies in the Federal Government responsible for the development and implementation of statistical information programs, we hope you will tell us of your plans in this area.

As you know, this committee has had a long standing, acute interest in the maintenance of a sound, progressive, and healthy supply of economic information. Yesterday we heard from three outstanding experts in this field, two of whom headed professional committees inquiring into possible politicization of critical statistical programs. The third witness was an outstanding expert on the national income accounts, the development and measurement of which is a major function of your Department.

We discussed at some length past instances of possible politicization of economic statistics, and I must say what they had to tell us had a rather chilling effect. Their message was almost unanimously along the following lines:

1. That the probability of recent detrimental political influences was high;

2. That this impact was rather clearly established when it is seen that even the appearance of intervention can have a deadening impact on the statistical staff not only through softening or exaggerating statements to fit political expediency but through outright attrition of professional staff.

3. And that these dangers can be minimized if competent professional experts are placed in charge of the programs.

These are views which I share, and for this reason, we shall spend some time this morning. Mr. Secretary, going into the status of the staffs of your statistical bureaus and the qualifications of your recent appointments or nominees to head these organizations.

Representative CONABLE. Mr. Chairman, your opening statement is an example of the politicization of the Joint Economic Committee.

Chairman PROXMIRE. There is no question about there being a politicization—Republicans and Democrats.

Representative CONABLE. I would say the testimony yesterday was quite restrained, Mr. Secretary, and I suspect part of the reason it was restrained was they were awaiting your testimony today.

I suspect that there is a good deal more to this than meets the superficial glance and we all look forward to your testimony on this particular subject. We all feel that economic statistics are very important to interpretation of Government policies and we are sure that considerable thought has been given to the course of the statistical gathering agencies in your Department.

We welcome you to the committee and look forward to your testimony, sir.

Secretary DENT. Thank you, Mr. Conable.

Chairman PROXMIRE. Go right ahead, Mr. Secretary. You have a 17-page prepared statement. If you want to abbreviate in any way we will be happy to have the entire prepared statement printed in full in the record and any other material that you would like to submit.

Representative CONABLE. Do we have any other witnesses this morning, Mr. Chairman?

Chairman PROXMIRE. No. Secretary Dent is the only witness and we will be delighted to have him present his prepared statement in any way he wishes.

If you would like to abbreviate it, as I say, you can do so without fear you will lose the wisdom you have right here.

STATEMENT OF HON. FREDERICK B. DENT, SECRETARY OF COMMERCE, ACCOMPANIED BY HENRY B. TURNER, ASSISTANT SECRETARY FOR ADMINISTRATION; GEORGE JASZI, DIRECTOR, BUREAU OF ECONOMIC ANALYSIS; AND ROBERT L. HAGAN, DEPUTY DIRECTOR, BUREAU OF THE CENSUS

Secretary DENT. Mr. Chairman, I welcome this opportunity to review the current activities of the Commerce Department within the Federal statistical system, and particularly the roles of the Bureau of Economic Analysis and the Bureau of the Census within the Social and Economic Statistics Administration.

First, Mr. Chairman. I want to thank you for the kind reference in your June 1 letter to the Department's long history of progressive achievements with regard to statistical programs. We are proud of this

record, and I am confident that the Department's statistical agencies will continue to be progressive and innovative in meeting the needs for better and more timely statistics.

In accordance with the committee's interests, I would like to highlight for you the ongoing statistical activities of the Department of Commerce, outline some of the significant improvements we are making, and describe how the establishment of SESA has contributed to the advancements of the Department's statistical programs.

Chairman PROXMIRE. Could I interrupt, Mr. Secretary, to ask you to introduce and identify the gentlemen at the table with you.

Secretary DENT. Yes, sir. Mr. Jaszi, who is Director of the Bureau of Economic Analysis; Mr. Hagan, Deputy Director of the Census Bureau; and Mr. Turner, Assistant Secretary for Administration.

Chairman PROXMIRE. Fine. Thank you.

SUMMARY OF DEPARTMENT OF COMMERCE STATISTICAL ACTIVITIES

Secretary DENT. The statistical programs of the Commerce Department seek to provide accurate, up-to-date information on the status of the U.S. economy in general, on the level of economic activity in selected key business and industry sectors in particular, and on the social and economic characteristics of the population of the United States. This information is used to guide decisions on a variety of subjects, ranging from Federal economic policy to product marketing, school construction, local planning, and individual investments. The range of users is equally wide, encompassing most of U.S. business and industry; labor organizations; Federal, State, and local governments; academic institutions; and research establishments.

For the current fiscal year, 1973, funds for the statistical activities of the Department will amount to more than \$70 million in directly appropriated funds. Additionally, we will perform more than \$45 million worth of work for other Federal agencies on a reimbursable basis, and another \$4 million worth for the general public, also on a reimbursable basis. The majority of this \$119 million program, \$106 million, will be spent by SESA in providing general purpose statistics. However, the Domestic and International Business Administration and the National Marine Fisheries Service, a component of the National Oceanic and Atmospheric Administration, also provide important statistical information in their areas of expertise. I would like to highlight these programs for you before concentrating on the many activities of the Social and Economic Statistics Administration.

STATISTICAL ACTIVITIES OF THE DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

The Department's Domestic and International Business Administration conducts statistical activities aimed at—

- Analyzing the foreign trade of the United States and other countries, including East-West trade;

- Providing basic data on the economic and trade performance of major competitor nations;

- Compiling and distributing reports containing data on foreign markets for specific products; and

- Providing reports, analyses, and forecasts of current activities and trends in selected key industries in the United States.

Data from international trade analysis program provide government and industry with a picture of past and projected trends in domestic and world trade. Through this program, shifts in the American share of foreign markets can be pinpointed and evaluated, and factors influencing world trade can be identified. The overseas research program provides information to help U.S. industry export its products more effectively and to select geographic areas for overseas trade promotion. The newly formed Office of Competitive Assessment will use all available data to monitor the U.S. and foreign competitive positions to develop forecasts of future performance, and to analyze the major determinants of U.S. competitiveness.

On the domestic side, current business information and analyses of industrial shipments and trends are provided through publication of the annual U.S. Industrial Outlook and seven periodicals on selected major industries. The Outlook is being extensively revised in format to include more in-depth coverage and special reports, and is being scheduled for publication earlier in the year to make it more useful for business planning.

STATISTICAL ACTIVITIES OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA's National Marine Fisheries Service produces about 300 statistical reports each year. These reports cover quantities and prices of the U.S. fish catch, imports and exports of fishery products, employment in fishing and related industries, amounts of fishery products processed, and the number of fishing vessels in the U.S. Fleet. These data are distributed through three different series of reports: Current Fishery Statistics, Statistical Digests, and Market News Reports.

Data on U.S. fisheries activities are used to analyze supply and demand for U.S. fishery products and marine sport fish, to study the movement of fishery products through distribution channels, to study the economic viability of U.S. fisheries, and to analyze fishery management problems. One indication of the widespread interest in this effort is the fact that each issue of the Market News Reports, which is issued three times a week, is read by approximately 10,000 people.

PROGRAMS OF THE SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

The Social and Economic Statistics Administration (SESA) is the Department's principal agent for the collection, compilation, and analysis of general purpose statistics in the economic, demographic, and social fields. SESA is also responsible for the preparation, interpretation, and projection of measures of U.S. economic activity in the aggregate. In carrying out its assigned responsibilities, SESA conducts three distinctly different types of programs: Current statistical programs, which provide monthly, quarterly, and annual data based on statistical samples; periodic censuses and surveys, which are taken at 5- or 10-year intervals and which strive for either complete or very extensive coverage of the subject matter; and reimbursable activities, which are undertaken on request and in accordance with the needs of the sponsoring organization.

SESA's current statistical programs provide timely and reliable information concerning activity in retail, wholesale and service trade

businesses; and the construction, manufacturing, and transportation sectors of the economy. The official U.S. figures on imports and exports are produced by SESA, along with data on State and local government employment and finances. Additionally, SESA provides up-to-date information on the size and rapidly changing characteristics of the American population and its housing. The most widely used statistical publication in the United States—the Statistical Abstract of the United States—is also an annual output of the program. Over 35,000 copies of this comprehensive reference work are distributed annually through Government channels, and an additional 150,000 to 200,000 copies are reproduced commercially.

In regard to aggregate measures of U.S. economic activity, SESA produces quarterly and annual estimates of the gross national product (GNP), analyses of each industry's contribution to GNP, and tables showing how all segments of the economy interact in producing the GNP. Annual estimates of total and per capita income and employment are provided for each of the 3,100 counties in the United States. SESA also estimates the U.S. balance of payments. Publications are produced which contain all of these figures, in addition to analyses of other key economic indicators, such as expenditures for plant and equipment, business sales and inventories, and short- and long-term economic trends.

The second type of program conducted by SESA involves periodic censuses and surveys. Included in this category are the decennial censuses of population and housing, which provide population data required by the Constitution every 10 years as a basis for apportioning seats in the House of Representatives. Other periodic censuses cover State and local government activities, agriculture, and business and manufacturing.

A brief report on the 1970 census of population and housing may be in order at this point, since we are just now approaching the end of our publication program for that census. These publications represent the greatest volume of printed reports issued for any census, and we are completing the program several years sooner than was possible following the 1960 census. The completion of the 1970 census work mark two other major achievements.

First, the Census Bureau has recently completed and volunteered to the public its own analysis of the accuracy of census coverage. It is estimated that the rate of undercount in 1970 was 2.5 percent, or 5.3 million persons. This rate is an improvement over the 1960 rate of 2.7 percent and the 1950 rate of 3.3 percent. Credit is due to the staff of the Census Bureau for undertaking a successful coverage improvement program, and to the Congress for providing special funds for this purpose.

Secondly, the availability of statistical information from the 1970 census has been greatly expanded since the previous census, through the dissemination of summary computer tapes. These tapes contain much more information than can be tabulated for printed reports, and provide data users with the flexibility to do much of their own special analysis of census results. SESA has a Data Users Services Office which concentrates entirely on techniques to increase the availability, not only of census data, but from other ongoing statistical surveys.

The third type of program conducted by SESA is the reimbursable program. I do not wish to dwell too long on reimbursable activities—

those which we do under the sponsorship of other Federal or State agencies—since they vary widely from year to year. I do feel that it is significant to note, however, that the reimbursable activities of the Bureau of the Census increased by 25 percent between fiscal years 1972 and 1973. We are being called upon increasingly to serve as collecting agents for other Federal statistics of major importance, including data in the fields of housing, transportation, and consumer buying. We have long had a joint program with the Bureau of Labor Statistics to supply to them, through our Current Population Survey, the data on which official unemployment figures are based. We feel that the effectiveness of the Federal statistical system and general economy in Government operations are improved by efforts on the part of other agencies to avail themselves of the experience and established organization of the Census Bureau.

THE STATISTICAL PROCESS

Next, I would like to describe briefly the process through which the Department's statistics are collected, analyzed, and released to the public. First, in establishing the need for specific statistical series, and in planning an adequate program to meet that need, we receive guidance and assistance from the statistical policy staff within the Office of Management and Budget. All of our statistical program plans and budget requests are discussed with and reviewed by that staff. We also receive advice on statistical needs from the Council of Economic Advisers, the Federal Reserve Board, and other policymaking agencies. There is a thorough process of consultation with technical advisory committees and interagency committees. We also study the reports and comments of congressional committees, including, of course, this committee.

The implementation of new programs is largely in the hands of the technical and professional staff of SESA. Their decisions regarding the design of questionnaires, tabulations, and publications are guided by the stated needs of data users, as well as their own specialized experience. Much of the data collected annually or more frequently is obtained from already existing samples. The design and maintenance of these samples are carried out by experienced mathematical statisticians. Survey questionnaires are handled by a field staff of more than 1,500 interviewers. The information obtained through the numerous current surveys is processed through a large and complex electronic data processing system, which is supported by computer programmers and other experts in computer hardware and software. In the Census Bureau, the processing activity requires the mounting of approximately 5,000 reels of magnetic tape every 24 hours. The data are edited, sorted, and tabulated in accordance with elaborate and sophisticated specifications.

The compilation and release of current statistics is performed according to definite, fixed schedules and formats. This is required by OMB Circular A-91. Release dates are set in advance wherever possible, and these advance dates are published by OMB. In this way, users can expect information on a regular and timely basis. Once the summary statistics become available internally, a press release is prepared. This is usually a day or two before the scheduled release date.

The press release is approved by the Director of the appropriate Bureau, his Deputy, or an Associate Director. It is then transmitted promptly to the Administrator of SESA, the office of the Assistant Secretary for Economic Affairs, and the Department's Information office. The information is then given to the press without further comment. After the data are transmitted to the Department, the technical staff responsible for the data gives the same information by phone or messenger to their counterpart technicians in several Federal agencies, including usually the Council of Economic Advisers, the Federal Reserve Board, the Treasury Department, and the Office of Management and Budget. This entire process of gathering, compiling, and releasing statistics is the same now as it was before the Social and Economic Statistics Administration was established in January 1972.

IMPROVEMENTS IN STATISTICAL PROGRAMS

I would now like to discuss some of the improvements being made in the statistical programs of the Department. In this area, we have three broad objectives: To improve the timeliness, accuracy, and usefulness of the statistics we produce; to provide new statistical data and services in response to new needs; and to improve the methods and procedures by which we collect and compile statistical information.

In a sense, the objective of improving the timeliness, accuracy and usefulness of the statistics we produce involves a neverending process. There are always opportunities to further "fine tune" the process to achieve small improvements in accuracy and timeliness, and most of our progress is achieved in this way. However, the President's budget request for fiscal year 1973 placed a high priority on improving Federal economic statistics in general, and on extending and improving the data base, accuracy and timeliness of the national accounts and economic indicators, in particular. As a result, Congress increased SESA's budget by \$4,700,000 in current program areas.

Improvements now underway in this area include providing better data on retail trade, strengthening the quality of the annual and quarterly GNP estimates, and providing more meaningful data on U.S. foreign trade. In the retail trade area, we have already achieved a 50-percent reduction in the size of error due to sampling procedures by changing to a different method of sampling. We are now planning to further improve the accuracy of these statistics through increased cross-checking of the data collected. Since retail sales are used to estimate about 30 percent of GNP, these improvements will have a direct bearing on the provision of better GNP estimates.

SESA's Bureau of Economic Analysis is also giving special attention to improving its annual and quarterly GNP estimates by utilizing new and improved source data and by strengthening its estimating techniques. This effort will result, over the next few years, in quarterly GNP figures which require less significant revision after all of the data have been collected.

In the area of foreign trade statistics, we have initiated a project to compile and issue import statistics on the basis of their full landed value, including insurance and freight, as well as the more traditional free-on-board (f.o.b.) value. While we had originally hoped to start supplying import data on the new basis starting in July, we have run

into some problems in agreeing upon workable definitions for determining product values. We are working with OMB to resolve the definitional problems, which also concern the Customs Bureau and the Tariff Commission, and we are now planning to start publishing statistics on the new basis by January 1974.

Our second broad objective is to provide new statistical data and services in response to new needs. In this area, in fiscal year 1973 we initiated a comprehensive survey of minority-owned enterprises as part of our economic census program. This will provide data on the economic characteristics of acknowledged minority groups, including Spanish-speaking Americans, black Americans, and the American Indian. The information will cover calendar year 1972, and it will be available before June 1974. A comparable survey providing data for 1969 was conducted on a reimbursable basis in 1971.

In the fiscal year 1974 budget, we are proposing several additional new programs, including:

A survey to determine the capital expenditures and operating costs incurred by industry and government for air and water quality control and for solid waste management.

An annual survey to provide needed data on oil and natural gas, including the location and type of wells, well depth, and drilling and equipment costs.

Data needed by the Department of the Treasury to carry out the revenue sharing program. Census is supplying data on revenues and boundaries for each of the 38,500 eligible units under this program. Funds to conduct this program in 1973 are being made available from Treasury.

The compilation and publication of a social indicators report which will cover such subjects as urban conditions, crime, population dispersion, education, health, and employment.

A survey, to be taken in 1975, to provide a mid-decade picture of the social and economic characteristics of the population. This will not be a full census, but instead will be based on a sample of approximately 1 million households.

Our third broad objective is to improve the methods and procedures which we use in conducting such programs. One of the most important developments underway in this area is learning how to use, for statistical purposes, administrative records already in the hands of the Federal Government. I am speaking now of income and social security records, in the main.

An example of what can be done with such records is provided by the 1972 economic censuses, now in progress. About 60 percent of the firms and establishments included in the economic censuses no longer have to fill out a questionnaire because the data we need is already in Government hands. Furthermore, the majority of this 60 percent are the small firms which find the task of filling out census forms particularly burdensome. We are already working to extend this technique of using administrative records to our other programs. If the 1975 survey of the social and economic characteristics of the population, which I mentioned a moment ago, is approved, much of the data will be obtained using this technique.

A second significant innovation midway in its development is the Standard Establishment List, formerly called the Industrial Directory. When the list becomes operational in 1975, it will be a comput-

erized listing of approximately 7½ million U.S. firms and their establishments, updated annually. This listing will provide a common frame for selecting statistical samples of establishments, and a single source for determining and assigning industrial classification in accordance with the Standard Industrial Classification. We are also considering legislation that will permit the list to be used to achieve much greater comparability in statistical data collection and analysis by various Federal agencies.

Another proposed change, which we review as an improvement, is a rescheduling of the census of agriculture so that it will coincide with future economic censuses. This change will eliminate the need to reconcile data from the agricultural component of the economy with data collected from the economic censuses at a different time. Legislation is required to effect this change, and that legislation has been requested by the administration.

We are also aware of the recent Senate action on the farm bill, which would require us to proceed with the 1974 census of agriculture as originally planned. We believe that the needs for agricultural statistics can be adequately met by a survey in 1974 and a full census in 1978, as we have recently proposed in testimony before the Senate Post Office and Civil Service Committee.

REORGANIZATION OF COMMERCE DEPARTMENT STATISTICAL ACTIVITIES

Seventeen months ago, on January 1, 1972, the Social and Economic Statistics Administration was created by merging the Bureau of the Census with the Office of Business Economics and by transferring selected industry surveys from the Domestic and International Business area. The intent of this reorganization was to broaden the Department's statistical goals, provide the managerial framework for integrated planning and coordination of general purpose statistical programs, and increase opportunities for professional career planning and development.

While it is still too early to judge the success of the reorganization comprehensively, I am personally satisfied that the new organization is a significant improvement. It has enabled the Department to respond more effectively to needs for new data. An improved level of communication and cooperation has also been achieved between data collection activities of the Bureau of the Census and data analysis requirements of the Bureau of Economic Analysis, as they relate to the Department's program for providing general purpose statistics. This has been accomplished largely through initiatives of SESA management in general and most particularly, through the mechanism of an SESA Technical Advisory Committee, which includes the top managers of both Bureaus. The committee undertakes a monthly review of progress and problems in this area and initiates corrective action when needed. Also, project teams work closely together to plan and implement new or revised programs that will benefit from their joint efforts. The net result of these efforts has been reflected in more fully integrated long range planning of programs in which both Bureaus have strong interests.

In addition, the new structure has provided a logical place for central review and clearance of all departmental requests to OMB for approval to conduct public surveys. SESA has been assigned that re-

sponsibility. The new organizational arrangement has also provided a sensible and workable method for permitting the technical and professional staffs of each Bureau to concentrate on the quality of data production and analysis. At the same time, we have insured that the Bureau Directors and their key professional staff participate fully in broad policy development, and exercise full latitude with respect to their technical areas of competence.

I believe that the creation of SESA has already led to improvements in our statistical activities, and I am confident that it will continue to do so. The organizational structure of SESA will be under continuing review, and we will not hesitate to recommend changes when they are needed.

Thank you, Mr. Chairman.

Chairman PROXMIRE. Thank you, Mr. Secretary. We appreciate your coming here. We invited the Secretary of Labor. He was out of town, could not come, and I am delighted that you did arrange to come before us.

You have a very, very vital statistical responsibility in the Department of Commerce as I am sure you are well aware. At the same time, there are a number of other statistical agencies in our Government which also have great responsibility. As I understand it, you are responsible for a whole series of data which occur in the economic indicators for which we are in turn responsible—the Nation's income expenditures, and savings; gross national product; national income; sources of personal income; disposition of personal income, corporate profits; then new construction; housing starts; business sales and inventories; a number of other things. But you are not responsible, as I take it, for the price statistics, at least the Consumer Price Index.

Secretary DENT. That is in the Bureau of Labor Statistics.

Chairman PROXMIRE. The BLS has that responsibility, yes. And you do not have the responsibility, or do you, for any of the unemployment or employment statistics?

Secretary DENT. This is also in the Bureau of Labor Statistics.

Chairman PROXMIRE. That is Bureau of Labor Statistics, right. I knew they had the principal responsibility. I thought you might have some responsibility in there.

As I say, you do have very important statistics that are vital for our judgment and the judgment of business.

Yesterday we had three outstanding witnesses, as I indicated in my opening statement, and Mr. Duncan, who was chairman of a committee which inquired into the statistics and their validity and whether or not they were being properly safeguarded from political influence, suggested that the committee had specific suggestions as to criteria for the people who would head the Census Bureau and as Administrator of the Social and Economic Statistics Administration.

These were the criteria that he felt they should meet. No. 1, membership in a professional statistical association for at least 5 years.

Now, I want to ask you to keep in mind the two most recent appointments, Mr. Failor and Mr. Barabba. Neither of these men had membership in a professional statistical association for 5 years. Have they ever had any membership in such an association?

Secretary DENT. Not to my knowledge.

Chairman PROXMIRE. No. 2, the ability to make new contributions to knowledge in the field of statistics or subject areas of the Agency involved.

Now, I take it that that would require, perhaps not, but my conclusion is that this would require some professional experience in the field. For example, although members of this committee have some interest and knowledge of statistics I doubt if we would be qualified to make contributions to knowledge in the field of statistics of the order that a competent professional could. Would you argue that either of those men had that competence?

Secretary DENT. Mr. Barabba is a proven expert in the use of computer data and has lectured on this in a number of prominent places, Harvard Business School, the John F. Kennedy Center at Harvard as well as other places. He is a specialist in the field of marketing and the use of statistical information and I think has a significant contribution that he can make in this area.

Chairman PROXMIRE. In the use of computers.

Secretary DENT. Yes, sir, and information that is computerized.

Chairman PROXMIRE. Now, how about Mr. Failor?

Secretary DENT. Mr. Failor served in the judiciary. He is an attorney, an experienced businessman, and has served as an administrator in Government.

Chairman PROXMIRE. Well, there are many, many positions in Government which he would adorn with considerable attractiveness but I would think that this would be one of them. Would he be qualified to make contributions in the field of statistics or subject areas? I am not a lawyer myself but I have great admiration for lawyers and they can do all kinds of things that puzzle me and are far beyond me but one of them which I do not think they could even surpass my limited ability in is in the area of contributing to economic statistical information.

Secretary DENT. Mr. Chairman, your line of questioning follows the assumption that one agrees that the statistical society is the one which should establish the prerequisites for these jobs. I think you will find that the American Medical Association would like to have as the head of a hospital a man who has an M.D., but generally, we find that what is required is an administrator.

We have reviewed the records of the Census Bureau and find that only two out of six of the previous Directors of the Census Bureau could be categorized as statisticians, and amongst these I think Richard Scammon is a man of high reputation. He would not qualify as a statistician. The statistical people are in the civil service in the Department. The men who administer SESA and who direct the Bureau of the Census need to be responsible for the expenditure of over \$100 million a year and the direction of 7,000 employees. Of the 7,000 employees in census, only 3 percent are mathematical statisticians. The rest of them are field force, demographers, administrators, computer specialists, economists, geographers, survey statisticians, social scientists, engineers, clerical staffs, and consequently—

Chairman PROXMIRE. Mr. Failor does not fall in any of those categories, does he?

Secretary DENT. Those are the people that are presently employed in the Department.

Chairman PROXMIRE. Yes.

Secretary DENT. And the point I am making is that those men upon whom I must depend for the operation of this Department primarily need to be administrators, men of sound and good judgment who can oversee the work of specialists in this field, and—

Chairman PROXMIRE. Well, Mr. Secretary, I would agree that you would not have a statistician. You make a very good point, that we have not had statisticians in these positions very often in the past. However, professionals in many fields, including the fields you have mentioned, might very well be qualified. But here you have a man who has no professional qualifications.

The third point was national recognition in the professional field, and I take it that Mr. Barabba might qualify to some extent but certainly Mr. Failor would not qualify in that respect, would he?

Secretary DENT. We are still on this subject with the wheels stuck in the rut of accepting the statistical societies' definition of the man required for the job. We wanted a man with managerial skills and business experience, preferably with a background in either market research or statistics. Our primary interest, after all, was to find, as I have mentioned, someone who could manage this tremendous business with \$100 million and 7,000 employees each year.

I am fully aware of these recommendations made by the American Statistical Association as well as the Federal Statistics Users' Conference. These recommendations were considered in reviewing the candidates for the job and I believe that the criteria set forth for heads of statistical agencies are too narrow.

As an example, as mentioned, only two of those who previously served would fulfill their qualifications.

Nor do the criteria address the problem involved of managing the Census Bureau where only 141 are mathematical statisticians, and these are the people who conduct statistical research and develop new methodology. Our annual budget for this is about two and a quarter million of the total expenditures.

Chairman PROXMIRE. Let me interrupt to say I understand your viewpoint. You see, I do think we have a different situation now than we have had sometimes in the past. Because of what has happened—I am not talking about Watergate, I am talking about what has happened within the statistical area of government, governmental operation, the interruptions of the press conference, the feeling on the part of many people that the statistical interpretation has been biased more than in the past, under these circumstances, it seems that it is good to have an administrator but I cannot believe that among the thousands of well qualified people, you cannot find anybody who is not a good administrator as well as being a professional.

The fourth point was demonstrated professional achievement such as evidenced by successful operation of major statistical projects, by promotions to successively higher positions in a Federal statistical organization, or working in a responsible statistical position in private industry, education, nonprofit, or labor.

The reason for this was the feeling that you need a man who is proud of his professionalism, who identifies his obligations to the profession, has a deep faith in the integrity of statistics, has a commitment to the integrity of statistics, who is the kind of person who would

deeply resent any kind of slanting or any kind of misinterpretation and who would have a dedication to objectivity of an unusual kind.

Now, this is the kind of professionalism that insulates an administrator, it seems to me, from pressure from Democratic or Republican administrations which, of course, have great interest in having the statistics slanted so that they can gain advantage.

Secretary DENT. Mr. Chairman, I left private business after 25 years to join the Department of Commerce, and the commitment to accurate statistics which you have described is one which I bring to this Office, and the men who operate these agencies are directly responsible to me. The prevention of any finagling with statistics is my responsibility and we are committed to see that there is no politicizing or use of statistics for immoral or other purposes. I would point out to you that it was our Department alone which tried to convince the U.S. Senate that they should not put administration of the voter registration bill—the matter of compiling lists for voting registration—in the Bureau of the Census for fear that this invasion of the Bureau of the Census would be a trend toward the possibility of politicizing that activity.

This legislation was adopted by a single vote, but for 2 years we have resisted the concept solely on the grounds that it would go to the Bureau of the Census.

Now, if the Senate wishes to pass it, fine, but our position was that the Bureau of the Census should be kept totally free of political involvement, and we felt that this bill tended to involve the Bureau of the Census in the political procedure.

Chairman PROXMIRE. Well, you may be right or wrong on that. I am not asking about that. I am asking you about your response to the professional organizations that have said that in their judgment, one way of protecting the independence and the integrity of the statistics is to see that you have persons in these positions who are professionals.

Secretary DENT. Mr. Chairman, those professional organizations are ascribed organizations of professionals with a relatively narrow viewpoint in the statistical field. What I tried to get across is that in selecting men for this position, we were seeking administrators and that those people who deal in the narrow fields will take appropriate places in the broad management and administration of the Bureau and Department.

Chairman PROXMIRE. I just do not understand why it is that there is a feeling on the part of many people who are successful in business that somebody who is a professional cannot be a good administrator, that you have to get somebody who is a lawyer or a businessman or somebody who has something to do outside the profession, that you cannot pick an administrator from within the professional organizations.

Now, I went to Harvard Business School—as you may or may not know—and then I went to Harvard Graduate School for a degree in public administration, and I studied administration and I became convinced that you did not have to have business experience in order to be a successful administrator. We have many examples, as you know, in Government of people who have been successful Presidents and have been successful administrators in many respects, who have not had a record of business experience.

Secretary DENT. Senator, I could not agree with you more, but the reverse is also true—that to run and administer this activity you do not have to be trained narrowly in the statistical field or any other special field.

Chairman PROXMIRE. I am not saying that they be trained narrowly. I am simply asking that you have a professional person who has demonstrated his competence in the statistical field, who understands it, is devoted to it, and feels that is what he wants to do in life. He wants to make sure that these statistics are developed as honestly, accurately, comprehensively, and usefully as possible.

Secretary DENT. There is no need for a businessman for this position. What is needed is a person who can administer the overall operation and depend upon technically competent people to conduct their specialities within the broad area of operation of the Department. It certainly is a commitment of this administration and the Department of Commerce to see that sound statistics are produced. We realize the importance of it domestically and internationally.

Chairman PROXMIRE. My time is up. I will be back.

Congressman CONABLE.

Representative CONABLE. Thank you, Mr. Chairman.

Mr. Secretary, Senator Proxmire and I have discussions from time to time about whether my study of medieval history or his study of poetry qualifies us on this Joint Economic Committee. Our backgrounds are somewhat different from the responsibility we carry out here. And the chairman, of course, is a man deeply committed to civilian control of the military and I am sure that he would not come before us and advocate that a general become Secretary of Defense because of his skill in the field of military science.

Chairman PROXMIRE. Would the—

Representative CONABLE. I will be glad to yield to the Senator.

Chairman PROXMIRE. I would have no objection at all provided he was not as Mr. Haig, who was pulled in when he was still an active duty officer. I think General Eisenhower who was a superb person and a good President, I would not disqualify.

Representative CONABLE. That did not disqualify him as Commander in Chief, I imagine.

Chairman PROXMIRE. That is right, and I certainly would not disqualify any person who had good experience in the military from being Secretary of Defense.

Representative CONABLE. The point I am making only is that professionalism is certainly a desirable characteristic, but that you look for different qualifications in different jobs and I understand your position here and must say that I am somewhat floored by the dimension of your statistical efforts.

Could you say, Mr. Secretary, that in recent years the growth in the statistical area has been more in the Department of Commerce than in the Department of Labor, because you seem to have the dynamic here in relation to the field of statistics. The Bureau of Labor Statistics is functioning in a vital area, of course, but it seems to me that you have taken on rather more new projects than they have. Can we expect this kind of further proliferation in the statistical gathering, analysis, and dissemination that is implicit in the budget you have reported to us here?

Secretary DENT. Mr. Conable, if I might, as an Administrator, I would like to call upon a technical man to respond to that. Mr. Hagan, who is the Deputy Director of the Bureau of the Census. I think it well to get a professional response to the question.

Representative CONABLE. All right.

Mr. HAGAN. Thank you, Mr. Secretary.

Congressman, in response to that, I would have to state initially that I would not presume to speak for the Department of Labor in this case but I will identify the growth within the Department of Commerce, Bureau of the Census.

The budgets requested for current statistical programs—these are the annual, quarterly and monthly series—have increased almost twofold since 1969, from a base of \$21½ million in 1969 to \$38.8 million currently under consideration as part of our appropriation request.

In addition to that, in the last 3 years particularly, we have had a very substantial increase in the type of work that we perform for other Federal agencies, and in this context, of course, there are several notable programs I think that ought to be mentioned.

Some of these generate, of course, from legislative action by the Congress. The Fiscal Assistance Act, the revenue sharing activity, specifically identify the Bureau of the Census to be the source of certain data. This then triggers an additional data collection and tabulation operation. The same is true of other types of reimbursable programs.

Our activities in serving the Bureau of Labor Statistics in the consumer expenditure survey is a major growth. It is true that our organization has grown—the workload has grown tremendously in the last few years.

Representative CONABLE. Mr. Secretary, I suppose almost all the work, the statistical work, of your department now is computer-based, is it not?

Secretary DENT. Yes, sir, that is correct.

Representative CONABLE. And the growth of computer technology coincident with the multiplication of human knowledge that has been taking place permits a very great increase in the dissemination of statistical information compared to what might have been done 15 or 20 years ago, is that correct?

Secretary DENT. No question about that, and the amount I mentioned, 5,000 reels of magnetic tape each 24 hours shows the vast use and involvement of the computers.

Representative CONABLE. Well, then, I think probably we can expect a further proliferation of statistical demand and statistical opportunity.

Let me ask you: You mentioned in your statement the relationship to OMB statistically. Where is the decision made for a new statistical program, some new service to be provided? Is the ultimate decision left with OMB? Is it the result of a request normally from Commerce as a result of inputs that are made either from Government agencies or from private groups with OMB making the ultimate decision as to whether the financial commitment—I suppose once you start one of these programs it is very difficult to stop it, and so there is a substantial budget commitment made every time you start a new statistical program.

Is OMB the one who ultimately makes the decision?

Secretary DENT. The recommendations for new programs come either from within our department or from other agencies. The development of the proposed program goes forward at the technical level within our department. When the ultimate program is finalized and we put a price tag on it, naturally we have to get approval from OMB in order to adopt this and put it into effect.

Representative CONABLE. Do you know anything about who makes the decision over at OMB? Is it a statistician or administrator? Is it decided politically? Do you have any idea?

Secretary DENT. Yes. The man in charge of statistical programs until just this week was Mr. Julius Shiskin and he has just been nominated to be in charge of the Bureau of Labor Statistics. He is a thorough-based statistician who is highly regarded in the profession.

Representative CONABLE. So he has been the one who has been at least in recent times making decisions as to whether new statistical programs are to be taken on, new statistical services are to be provided, based on recommendations probably channeled through your department and frequently coming from other agencies. Is that the right process?

Secretary DENT. That is correct and, of course, the recommendation, if favorable, then goes before the Congress in the form of appropriations requests.

Representative CONABLE. Well, some of these requests for statistical analysis come from the Congress itself, do they not? As I recall, the revenue sharing bill provided a specific legislative mandate that census data be upgraded constantly for purposes of revenue sharing. Is that not correct?

Secretary DENT. We do get a good many mandates from the Congress. As I mentioned earlier, there is pending in the Congress the possibility that all voters in the Nation will have to be registered by the Census Bureau if they are willing—or if someone is willing—to send a postcard in their behalf to us.

Representative CONABLE. That is all for right now, Mr. Chairman.

Chairman PROXMIRE. Mr. Secretary, when Mr. Failor was appointed to his position, and Mr. Barabba to his, you not only had men appointed who were not professionals and did not meet any of the criteria proposed by the user agencies of statistics who seem to feel that professionalism is desirable, but there were other elements. As I understand it, Mr. Barabba had distinguished himself as a taker of Presidential polls for the President. Mr. Failor had been active in CREEP, which has more significance than just the fact that it is the letters of the Committee To Re-Elect the President.

Representative CONABLE. They kept interesting records, too.

Chairman PROXMIRE. They certainly did. Yes. That is right.

Secretary DENT. Not statistically based.

Chairman PROXMIRE. On the basis of those records I presume he was not appointed because those records were in such great shape. I understand he worked under Mr. MacGregor and he worked against Senator McGovern.

You see, when people are appointed who have this kind of a background I think it is more than simply not appointing professionals and I would disagree very strongly with you in that respect. But when

you also take people who have been as active as they have politically and put them in this particular position under these circumstances at a time when there has been great question about the reliability of interpretation of economic statistics, I think that you really are asking for criticism from a Democratic Congress and I do not think you should be surprised that you are getting it.

Secretary DENT. Mr. Chairman, first of all, let me assume full responsibility as Secretary of Commerce for the accuracy and timeliness of all the statistical reports that come out.

Secondly, you referred to Mr. Barabba's participation. His firm did in fact gain some opinion which was fed into the reelection of the President efforts but this activity represented less than 10 percent of his firm's activity at that time.

The question of Mr. Failor has been raised several times and I think it quite important from his standpoint that I put into the record here a background piece on him because having interviewed him, I think it of some significance.

Ed Failor joined the Bureau of Mines just 2 weeks after the tragic coal mine explosion in Hyden Ky., in mid-January 1971. He came in as Staff Associate to the Director of the Bureau. He immediately initiated the preparation of rules and regulations setting up a badly needed Office of Assessments and Compliance Assistance in the Bureau. These regulations were published in the Federal Register 6 days after he came on the job. This new office was devised to administer assessment procedures for violations of the Federal Coal Mine Health and Safety Act of 1969.

Mr. Failor assumed the role of Chief of this new office and guided an extensive reorganization of the Bureau's health and safety operations.

Under his direction, assessment officers were recruited and a clerical staff formed to process thousands—38,000—of unanswered violations which had accrued during the first year of the Coal Mine Health and Safety Act.

Chairman PROXMIRE. Let me interrupt at that point because I think it might be helpful for you to comment on the fact that Mr. Failor's work has been assessed by the General Accounting Office, an agency in whose objectivity and competence most of us have faith, and here is what they had to say about it. They said:

The Bureau's management control system was not adequate to readily identify the status of cases and to provide data needed to identify and correct the causes of processing delays.

Significant delays in referring cases for hearing and in conducting hearings on cases disputed by mine operators resulted in a backlog of over a thousand cases awaiting hearings.

From July to December 1971 the Department's Office of Hearings and Appeals resolved about 31 penalty cases a month. GAO estimated that, at this rate, it would take over 2½ years to resolve the hearings backlog of December 3, 1971.

Bureau officials stated that six statutory factors are considered in making assessments. However, written guidelines had not been developed to aid the assessors in considering the factors, the consideration given to each of the factors by the assessors was not documented, and no such documentation was required.

GAO estimates that, as of November 3, 1971, there were 1,785 assessment cases on which action should have been taken. As of December 31, 1971, no collection action had been taken on about 60 percent of these cases and action on the remaining 40 percent had not been timely.

By December 31, 1971, the Assessment Office had filled only four of the 12 permanent assessor positions authorized under fiscal year 1972 appropriations

because of problems in attracting qualified personnel and because of manpower limitations imposed by the Civil Service Commission in August 1971. To supplement the staff of assessors, mine inspectors were temporarily detailed to the Assessment Office.

It is not a very distinguished record on the basis of analysis, as I say, not by a partisan or critic of any kind but just a factfinding report by the Comptroller General.

Secretary DENT. I think it important that this committee's record include the record of this man since he has been taken to task and I would like to continue with it.

By the end of June 1971 the violation backlog had been assessed, creating an immediate enforcement impact on the mining industry. The fatality rate in the coal mines dropped 30 percent in 1971 (the year of the lowest number of deaths in recorded history) from 1970. In 1972 the rate fell again, setting another record low. Issuances of notices of violations increased from 38,000 in 1970 to 75,000 in 1972.

Mr. Failor instigated other major changes within the Bureau of Mines. He brought new, vigorous management into key positions. He reorganized the district office operation and placed professionals in leadership roles. He introduced a district managers' training and rotation plan. He reorganized the education and training system, using professional educators and establishing training centers in the mining regions in the Nation. The total of mine personnel attending training classes leaped from 33,000 in 1970 to 120,000 in 1971 and to 210,000 in 1972.

In addition, Mr. Failor instigated procedures to reduce the time to recruit, test, process, hire, and train coal mine inspectors from 32 months to 22 weeks.

Chairman PROXMIRE. May I ask you, Mr. Secretary—I am informed by the staff that many of the statistics—much of the statistics you are giving, not all of them, are not comparable. They are not statistically sound because they come after an amendment that was adopted by the Congress to change the statistical basis.

Secretary DENT. I think it important that this man's record be put in the record and I would like to continue.

Representative CONABLE. Mr. Chairman, let us have him put it all in.

Chairman PROXMIRE. How long is it?

Secretary DENT. It is another page and a half.

Chairman PROXMIRE. How long will that take you to read it—another 10 minutes.

Secretary DENT. Five minutes, maybe.

Chairman PROXMIRE. All right.

Secretary DENT. The inspections more than doubled again in 1972, rising to 58,000.

Mr. Failor discovered that the Bureau of Mines lacked a disaster reaction system. He established a written emergency response system giving the Bureau a systematic disaster reaction capability for the first time.

Finally, Mr. Failor provided for the use of automatic processing for coal mine injury data, violations and assessments data, the training of individual coal miners, and accident histories and accident analysis.

Mr. Failor's successful efforts in improving the effectiveness of the Bureau of Mines led to an "outstanding" rating and a citation from the Director, which reads as follows:

Mr. Failor joined the Bureau of Mines at an exceedingly difficult time for the Bureau. This was in mid-January 1971, two weeks after the Hyden disaster with all of its repercussions, and nine months after the time that Interior was to begin assessing coal companies for violations of the 1969 Act. No assessment machinery had been set up. Violations were being cited and piling up by the thousands. The Bureau's Coal Mine Health and Safety program was near a chaotic condition. Mr. Failor plunged into the problem, set up the necessary machinery, was to a large extent responsible for getting the Bureau's Coal Mine Health and Safety program settled down.

During the course of his career Mr. Failor also has served as vice president of two private organizations—the Page Hotels in Dubuque, Iowa, and the Fred A. Niles Communications Centers, Inc. in Chicago.

Mr. Failor practiced law in Dubuque following his graduation with honors from the college of law, State University of Iowa. He later served as judge of the municipal court. He served as chairman of the Iowa Municipal Judges Association's public relations committee and a member of the public relations committee of the North American Judges Association. He has served on various panels and has spoken before groups in a legal and judicial capacity. He has coauthored a book and written law-related articles.

In his community service Mr. Failor has applied his administrative abilities to dozens of other activities. He has served as chairman of many organizations in Dubuque, among them the Community Services Planning Committee and its Survey Committee, the Salvation Army Advisory Board, Dubuque Summer Festival, and the polio vaccine project.

He has served as an officer or board director in Dubuque for the United Fund, Dubuque Baseball, Inc., Economic Opportunity Agency, Inc., and chairman of its liaison committee, We Care, Inc., Junior Chamber of Commerce, and the YWCA.

He has contributed his abilities to the Northeast Iowa Presbytery's Judicial Committee and has served as an officer to the local Ecumenical Lay Conference and as chairman of his church's dedication committee.

He served as advisor to Dubuque's Health Facilities Planning Board and as a member of the Iowa welfare association's legislative committee, Clark College development council, and the chamber of commerce's industrial expansion committee.

He conceived the idea of the Dubuque Youth Council, and guided its establishment.

As a result of these contributions, Mr. Failor earned his city's highest civil award for outstanding leadership in community activities. During his years of service in Dubuque he in fact has received every award presented by the community for civic achievement. Other local awards included the chamber of commerce's distinguished civic service award and the optimists' outstanding service to youth award.

Chairman PROXMIER. Obviously, my time is up, Mr. Secretary. Mr. Conable.

Representative CONABLE. Well, Mr. Secretary. I am not sure all of that statement is relevant to Mr. Failor's qualifications for the job for which he has been nominated but I am interested, Mr. Chairman—is this a preconfirmation hearing that you are holding on these people at this point? Are these people confirmed yet in their jobs?

Secretary DENT. Mr. Barabba's hearing is scheduled—he is acting-designate so far. Mr. Failor's is a secretarial appointment.

Representative CONABLE. So not subject to confirmation.

Secretary DENT. That is correct.

Representative CONABLE. All right. I just wanted to be sure what we are doing here. I am a little confused by it.

Well, I think the Secretary's points that have been made about qualifications for these people are relevant in terms of their managerial responsibilities. There is no question about it, that they will have many statisticians under them as well as many other people of different disciplines, and I suppose you understand also, Mr. Secretary, that this is a matter—that the competence and accuracy of the information coming from these massive statistical inquiries is a matter of concern to the Congress and to the public as a whole. We have the usual question of the right of the President and the Secretary to appoint people who in their view are qualified to perform the job as they see it, and while it is perfectly appropriate for Congress to probe and test, ultimately you are the one who has to work with these people and you are the one who has to be responsible for their qualified functioning in the job.

I take it you are satisfied in your own mind that these people possess the requisite qualifications.

Now, I am interested in the dramatic upsurge in the statistical inquiry that is apparently appropriate for Government in this complex society of ours, and I take it that we can anticipate a further growth of the statistical wing of the Government in your Department and elsewhere but particularly in your Department, and I urge you, of course, to do whatever can be done to insure a high level of competence and confidence in the output of your Department. And I am sure that is what we are talking about here.

I do not have any specific questions, Mr. Chairman. I will turn it back to you.

Chairman PROXMIRE. Now, Mr. Secretary, I do have some questions.

Who prepared the document on Mr. Failor you just read, you, or Mr. Failor or did the White House?

Secretary DENT. It was prepared in Mr. Turner's operation and included information that we have on his background which was used prior to his coming on board.

Chairman PROXMIRE. You were really pulling our leg a little bit, were you not, when you read that whole thing and told us that he was active in the junior chamber of commerce, that he was dedicated to his

church and that he had gotten this outstanding rating? An outstanding rating for a man in that position is about the same as getting an "A" if you are a graduate student. I think all the graduate students I knew when I was at Harvard, with a total of hundreds of grades, there were only three or four "B's" given to all of them, aggregate. Everybody gets an outstanding rating unless they are fired and some of those fired are given an outstanding rating. It has all the distinction of appearing in the telephone book.

Secretary DENT. Mr. Chairman, when a man's name is spread across the record in a detrimental way I will do everything I can to see that facts about him personally——

Chairman PROXMIRE. Mr. Secretary, I have said nothing about the character of Mr. Failor, about his decency or——

Secretary DENT. His qualifications have been challenged.

Chairman PROXMIRE [continuing]. Dedication to his church or dedication to his principles. What I have talked about is his qualifications for this particular office and this man in my opinion, is wholly unqualified. We do not have a chance to pass on him. We do have a chance to pass on his subordinate, Mr. Barabba, for the Census Bureau. Would you object to having Mr. Failor up for Senate confirmation? In your view, would that be wrong in view of the great authority and power he has and the importance of his position?

Secretary DENT. The job is not subject to Senate confirmation.

Chairman PROXMIRE. I am not asking that. It is not subject but would you not agree that this kind of office should be subject to Senate confirmation?

Secretary DENT. This is a judgment that is beyond the immediate point. I am sure that his qualifications are strong and, Mr. Chairman, I would like also to point out that the part of the GAO report that you read was not the full report. It was taken out of context, and there were no allegations of negligence on Mr. Failor's part contained in either the findings or the recommendations of the GAO report to which you refer.

Chairman PROXMIRE. Well, I think what I read from the GAO report was fair but I think you make a good point, that I did not read the entire report, and without objection, the entire report, which is not very long, will be printed at this point in the record so that it can be available to those who would like to review it.

[The GAO report referred to follows:]



***REPORT TO THE
CONSERVATION AND NATURAL
RESOURCES SUBCOMMITTEE
COMMITTEE ON GOVERNMENT
OPERATIONS
HOUSE OF REPRESENTATIVES***

**Improvements Needed
In The Assessment And Collection
Of Penalties--Federal Coal Mine
Health And Safety Act Of 1969**

B-170686

Bureau of Mines
Department of the Interior

***BY THE COMPTROLLER GENERAL
OF THE UNITED STATES***

JULY 5, 1972



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-170686

Dear Mr. Chairman:

In response to your request of September 24, 1971, this is our report on improvements needed in the assessment and collection of penalties under the Federal Coal Mine Health and Safety Act of 1969, as administered by the Bureau of Mines, Department of the Interior.

Our principal observations are summarized in the digest at the beginning of the report. We have not obtained formal comments from the Department of the Interior on these matters.

Your office requested that we compare the procedures used by other Government agencies in assessing and collecting penalties for programs that are similar to the Department's program. There were no similar programs which we considered suitable for comparison purposes.

On March 2, 1972, a group of coal mine operators filed a complaint for injunction and declaratory judgment against the Secretary of the Interior and responsible Department officials in the United States District Court for the District of Columbia. Included in the complaint were allegations concerning the methods and procedures used by the Bureau in applying six statutory factors to each violation. Some of these allegations relate to the matters discussed in chapter 4 of this report. Therefore, we wish to point out that public disclosure of the contents of chapter 4 could possibly prejudice the Government's case. Any additional release of this report will be made only upon your agreement.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "James B. Staats".

Comptroller General
of the United States

The Honorable Henry S. Reuss
Chairman, Conservation and
Natural Resources Subcommittee
Committee on Government Operations
House of Representatives

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COMPTROLLER GENERAL'S REPORT TO
THE CONSERVATION
AND NATURAL RESOURCES SUBCOMMITTEE
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

IMPROVEMENTS NEEDED IN THE ASSESSMENT
AND COLLECTION OF PENALTIES--FEDERAL
COAL MINE HEALTH AND SAFETY ACT OF 1969
Bureau of Mines
Department of the Interior B-170686

D I G E S T

WHY THE REVIEW WAS MADE

At the request of the Subcommittee Chairman, the General Accounting Office (GAO) reviewed the Department of the Interior's implementation of the civil penalty provisions of the Federal Coal Mine Health and Safety Act of 1969. The request was concerned particularly with timely and efficient assessment and collection actions and the consideration given to six statutory factors in assessing civil penalties for violations of the mandatory Federal health and safety standards by coal mine operators and miners.

GAO did not obtain formal comments from the Department of the Interior on these matters.

Background

The act and its implementing regulations provide certain procedures for the assessment and collection of penalties. The procedures include consideration by the Bureau of Mines of six statutory factors (see p. 24), a mine operator's right to protest a penalty, and his right to a public hearing. (See p. 6.)

From April through November 1970, the Bureau was restrained by a court order from, among other things, assessing penalties in accordance with a penalty schedule published by the Department. The Bureau's Office of Assessment and Compliance Assistance began assessing penalties in February 1971 and, as of December 31, 1971, had assessed penalties totaling \$12.5 million. This amount was reduced by \$2.7 million through amending or vacating assessment orders and by \$1.4 million through collecting penalties, leaving an outstanding balance of \$8.4 million as of December 31, 1971. (See p. 8.)

FINDINGS AND CONCLUSIONS

Assessment delays

GAO sampled assessments and found that (1) about 4 months elapsed from citation of a violation by a mine inspector to assessment of a penalty and (2) about 10 weeks elapsed from the request for a hearing by a mine operator to

the referral to the Solicitor's Office for initiation of the hearings process by the filing of a petition with the Department's Office of Hearings and Appeals. (See p. 10.)

The Chief of the Assessment Office stated that, although the initial backlog of violations awaiting assessment was eliminated by June 1971, the time required for processing violations resulted in further backlogs and time lapses in assessing penalties through most of 1971. He stated that after January 1972, all violations were assessed within 30 days of receipt by the Assessment Office.

This 30-day period was not comparable to the 4-month average mentioned above because it did not include the time from the citation of the violation to the time of receipt by the Assessment Office. GAO did not verify the 30-day assessment time.

The Bureau's management control system was not adequate to readily identify the status of cases and to provide data needed to identify and correct the causes of processing delays. (See p. 13.)

Because the Bureau was making changes in its management system at the time of GAO's review, GAO was not able to evaluate how well the system will meet management's needs.

The Assessment Office has taken actions which have resulted in

- eliminating the large initial backlog of violations awaiting penalty assessments,
- decreasing the percentage of cases in which penalties are reduced as a result of protests from mine operators, and
- increasing the amounts of penalties assessed against mine operators.
(See p. 16.)

Hearings delay

Significant delays in referring cases for hearings and in conducting hearings on cases disputed by mine operators resulted in a backlog of 1,062 cases awaiting hearings (\$2.8 million in assessments) by December 31, 1971. (See p. 21.)

From July to December 1971, the Department's Office of Hearings and Appeals resolved about 31 penalty cases a month. GAO estimated that, at this rate, it would take over 2-1/2 years to resolve the hearings backlog of December 31, 1971.

The Director of the Hearings Office believes that proposed changes in the regulations will expedite disposition of the cases. Also, action is being taken to hire more hearings examiners and attorneys to process the backlog. GAO believes that, within a reasonable time after implementing the corrective actions, the Department should evaluate their effectiveness. (See p. 23.)

Consideration of factors required by law

Bureau officials stated that six statutory factors are considered in making assessments. However, written guidelines had not been developed to aid the assessors in considering the factors, the consideration given to each of the factors by the assessors was not documented, and no such documentation was required. (See p. 24.)

GAO believes that written guidelines defining the factors and the consideration and weight that should be given to each factor would (1) assist the assessors in considering the factors, (2) help provide uniform consideration of the six factors, and (3) facilitate evaluation of assessor performance. Assessors should be required to document in the Bureau's files the consideration given each factor in assessing a penalty. (See p. 28.)

Although the six factors must be considered, a description of how the factors were applied in determining a specific penalty is not required in the proposed order of assessment sent to a mine operator. However, the guidelines, as recommended by GAO, should be made available to the mine operators so that they would have a better basis for understanding how penalties are assessed.

- - - -

On March 2, 1972, a group of coal mine operators filed a complaint for injunction and declaratory judgment against the Secretary of the Interior and responsible Department officials in the District Court of the United States for the District of Columbia. Among the matters included in the complaint were allegations concerning the methods and procedures used by the Bureau in applying the six statutory factors to each violation. Some of these allegations relate to the matters discussed above. Therefore, public disclosure of the contents of chapter 4 of this report could possibly prejudice the Government's case.

Limited collection results

GAO estimates that, as of November 30, 1971, there were 1,785 assessment cases on which collection action should have been taken. As of December 31, 1971, no collection action had been taken on about 60 percent of these cases and action on the remaining 40 percent had not been timely. (See p. 33.)

The Chief of the Assessment Office stated that primary efforts have been, and continue to be, directed toward assessment of penalties. (See p. 34.)

The Federal Claims Collection Act and its implementing standards, issued jointly by the Department of Justice and GAO, are applicable to the collection of civil penalties under the Federal Coal Mine Health and Safety Act of 1969. (See p. 36.)

The standards implementing the Federal Claims Collection Act provide that prejudgment interest cannot be demanded or collected on civil claims unless the statute under which the claim arises authorizes the collection of such

interest. Since the Federal Coal Mine Health and Safety Act of 1969 contains no such authorization, the Bureau cannot charge interest for late payment of civil penalties. (See p. 31.)

Staffing of Assessment Office

By December 31, 1971, the Assessment Office had filled only four of the 12 permanent assessor positions authorized under fiscal year 1972 appropriations, because of problems in attracting qualified personnel and because of manpower limitations imposed by the Civil Service Commission in August 1971. To supplement the staff of assessors, mine inspectors were temporarily detailed to the Assessment Office. (See p. 39.)

The Assessment Office began developing plans in November 1971 to decentralize the assessment operation by establishing four field offices. Officials believed that this decentralization would assist them in attracting qualified personnel.

RECOMMENDATIONS OR SUGGESTIONS

The Director, Office of Survey and Review, should be given the responsibility to:

- Determine whether the revised management system is effective in meeting management's needs, after the system has been in operation for a reasonable period. (See p. 20.)
- Evaluate the effectiveness of the actions planned to achieve speedy processing of cases, after they have been implemented for a reasonable period. (See p. 23.)

The Director, Bureau of Mines, should be required to:

- Issue guidelines defining each of the six factors and describing the consideration and weight that should be given each factor in determining the amount of a penalty. (See p. 28.)
- Make the guidelines available to mine operators. (See p. 28.)
- Provide for adequate documentation by the assessors in the Bureau's files of the consideration and weight given each factor in assessing a penalty. (See p. 29.)
- Give the same priority to collecting penalties as that given to assessing penalties. (See p. 38.)

CHAPTER 1INTRODUCTION

Pursuant to a request dated September 24, 1971, by the Chairman of the Conservation and Natural Resources Subcommittee of the House Committee on Government Operations and agreements reached with the Chairman's office, we have reviewed the implementation of the civil penalties provisions of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) by the Bureau of Mines, Department of the Interior. The request was concerned particularly with the timely and efficient assessment and collection actions and the consideration given to six statutory factors in assessing civil penalties. We did not obtain formal comments from the Department of the Interior on these matters.

In an earlier report (B-170686, May 13, 1971) to the Subcommittee on Labor, Senate Committee on Labor and Public Welfare, the General Accounting Office (GAO) discussed problems in implementing the Federal Coal Mine Health and Safety Act of 1969. Before passage of this act, the Bureau carried out a coal mine inspection and investigation program under the Federal Coal Mine Safety Act of 1952. The 1969 act repealed the 1952 act and placed increased responsibilities on the Bureau, including the assessment and collection of civil penalties for violations by coal mine operators and miners of the mandatory health and safety standards.

The stated purposes of the 1969 act are to (1) establish interim mandatory health and safety standards and direct the Secretary of the Interior to promulgate improved mandatory health and safety standards to protect the Nation's coal miners, (2) require that each coal mine operator and miner comply with such standards, (3) cooperate with and provide assistance to the States in developing and enforcing effective State health and safety programs, and (4) improve and expand, in cooperation with the States and the coal mining industry, research and development and training programs aimed at preventing coal mine accidents and occupational diseases.

In carrying out its responsibilities under the act, the Bureau conducts investigations and inspections to

determine the extent of compliance with the mandatory health and safety standards which have been issued by the Secretary of the Interior, issues violation citations, assesses and collects penalties from miners and mine operators who violate the law and regulations, and establishes and conducts education and training programs to improve health and safety conditions and practices in mines.

PENALTY PROVISIONS OF THE ACT

The act authorizes the Secretary to assess civil penalties against coal mine operators for violations of health and safety standards. The maximum penalty for each violation by a mine operator is \$10,000. Any miner who violates the mandatory safety standards related to smoking or the carrying of smoking material underground is subject to a maximum penalty of \$250 for each violation.

The act provides that a civil penalty be assessed only after the person charged with a violation has been given an opportunity for a formal hearing. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed, the Secretary is required to file a petition for enforcement in any appropriate district court of the United States.

The act provides for a fine and/or imprisonment for a mine operator who willfully violates a mandatory health and safety standard or knowingly does not comply with an Order of Withdrawal, which closes all or a portion of a mine until the violation is corrected.

CURRENT IMPLEMENTATION OF PENALTY PROVISIONS OF THE ACT

On January 16, 1971, the Secretary published regulations in the Federal Register, which established new procedures for the Bureau to follow in assessing civil penalties for violations of the act. During January 1971 the Bureau's Office of Assessment and Compliance Assistance was established in Washington, D.C., to assess and collect civil penalties. A description of the procedures provided for in these regulations and the Bureau's implementation follows.

The Bureau has nine coal mine health and safety districts which are responsible for conducting coal mine inspections and issuing citations for violations of the act. A citation consists of either (1) an Order of Withdrawal or (2) a Notice of Violation which informs the mine operator of the violation found and states a time by which the violation must be corrected. If the mine operator does not correct a violation cited on a Notice of Violation within the required time, or as extended, the act provides that an Order of Withdrawal shall be issued.

After the mine operator has been notified of the violation and has corrected it, the violation order or notice and information on its correction is forwarded by the mine health and safety district office to the Assessment Office. An assessment officer evaluates the violation and determines the amount of the penalty. The Assessment Office sends a proposed order of assessment to the mine operator, which cites the health or safety standard violated and the amount of the proposed penalty.

The mine operator has 15 working days, after receipt of the proposed assessment order, to pay the penalty amount, protest the assessment, or ask for a formal hearing. When a mine operator fails to respond to the order within the 15 days, his right of protest and his right to a formal hearing are considered waived and the proposed order becomes the final order of the Secretary.

Any protest by the mine operator must be in writing and should contain his reasoning on why a penalty should not be imposed or why it should be reduced. The mine operator may request a meeting with an assessment officer to discuss the protest. Upon receipt of a protest an assessment officer reviews the protest and amends (reduces the amount of the penalty), affirms (sustains the penalty amount), or vacates (voids the penalty amount) the proposed assessment order and notifies the mine operator accordingly.

If a penalty amount is proposed after the review of the protest by the Assessment Office, the mine operator has 15 working days from receipt of the amended or affirmed assessment order to either pay the assessment or ask for a hearing. Failure to respond within the 15 days results in the proposed assessment order's becoming the final order of the Secretary.

When the mine operator fails to pay the penalty, the Assessment Office follows procedures established to implement the Federal Claims Collection Act (31 U.S.C. 951) and the regulations issued thereunder (4 CFR 101). Continued failure to pay will result in the assessment order's being forwarded through the Department's Office of the Solicitor to the Department of Justice for enforcement in a district court of the United States.

When the mine operator requests a formal hearing, a petition listing the violations cited against the operator is filed by the Solicitor's Office with the Department's Office of Hearings and Appeals and the operator is notified that he must file a response giving his position on each violation cited in the petition within 20 days. The hearings are conducted by hearings examiners within this office. The mine operator may appeal the hearing decision to the Hearings Office's Board of Mine Operations Appeals. The Board's decision completes the administrative remedies available to the mine operators.

Penalty amounts collected are processed by the Bureau's Division of Finance, and assessment and collection data are compiled by the Bureau's Division of Automatic Data Processing, both of which are located in Denver, Colorado.

PENALTY ASSESSMENT STATISTICS

Records indicate that, during the period January 16 through December 31, 1971, the Bureau assessed mine operators penalties totaling about \$12.5 million for approximately 68,000 violations, involving 4,984 cases. A case consists of any number of violations for a mine that are assessed at one time.

The \$12.5 million of assessments was reduced by about \$2.7 million through amending or vacating assessment orders. Of the remaining \$9.8 million, approximately \$1.4 million had been collected, leaving a balance outstanding at December 31, 1971, of about \$8.4 million. The status of the \$8.4 million balance was, as follows:

Awaiting reassessment actions, possible protests, or requests for hearings	\$2,500,000
Awaiting hearings or final Hearings Office decisions	2,800,000
Collection actions started or pending	<u>3,100,000</u>
Total	<u>\$8,400,000</u>

CHAPTER 2ASSESSMENT AND PENALTY REVIEWBY THE BUREAU OF MINES

Delays occurred between (1) the time that mine inspectors cited mine operators for violations and the time that the proposed assessment orders were issued by the Assessment Office and (2) the time that mine operators requested hearings on disputed assessment orders and the time the Assessment Office referred these cases to the Solicitor's Office.

The Bureau did not have a management control system capable of readily identifying the status of cases requiring assessment action and providing information which, we believe, it needed to identify and correct the causes of processing delays.

Certain actions were taken by the Assessment Office which resulted in (1) eliminating the large initial backlog of violations awaiting penalty assessments, (2) decreasing the number of penalties reduced as a result of protests from mine operators, and (3) increasing the average amounts of penalties assessed against mine operators.

In reassessment of protested cases, mine operator protests generally were received within 30 days after the proposed assessments were mailed and the majority were processed within 30 days of receipt.

DELAYS IN ASSESSING PENALTIES
AND PROCESSING CASES

On March 28, 1970, the Secretary established procedures for assessing civil penalties under the 1969 act. In general the procedures provided that penalties for violations could be paid by the mine operator in accordance with a penalty payment schedule included in the regulations. If voluntary payment was not received from the mine operator within 30 days, an assessment of penalties was to be made by the Board of Mine Operations Appeals. The Board was required to assess a penalty after considering certain factors specified in the act.

On March 30, 1970, the Bureau began making inspections and citing violations under the new law. In April 1970 a U.S. district court issued an order which restrained the Secretary from, among other things, assessing penalties and accepting payment in accordance with the penalty schedule published in the March 28, 1970, regulations. The court order, however, did not prohibit the Secretary from initiating proceedings with the Board for the assessment of penalties.

During the period of the temporary restraining order, mine inspections continued and violation citations were issued. Violation citations, however, were not filed with the Board for the assessment of civil penalties.

The restraining order was dissolved on November 11, 1970, and on January 16, 1971, the Department issued revised regulations and established new assessment procedures. As violations had been cited but not assessed since May 1970, the Assessment Office, which was established in January 1971, began with a backlog of about 39,000 violations and there was a lengthy time lag between the citation of violations during 1970 and their assessment in 1971.

Although, according to an Assessment Office official, the initial backlog was processed by June 1971, Bureau records indicated that, as of December 31, 1971, there were about 24,000 additional violations (10,000 of which were in district offices and, therefore, could not have been assessed) cited that had not been assessed.

We found that the Bureau continued to take a long time to assess a penalty for a violation. For a sample of 65 assessment cases¹ containing 746 violations, the average time between citation of the violation by the mine inspector and the issuance of a proposed assessment order was 129 days,

¹ A statistically random selection was made of 100 mines for which there was a total of 190 assessment cases from January through November 1971. The 65 cases cited above represent all the cases within the 190, in which the violations were dated after January 1971.

ranging from 23 to 279 days. The 129 days includes time given the mine operator to correct the violation, as well as district office and Assessment Office processing time.

The Chief of the Assessment Office stated that, although the initial backlog was eliminated by June 1971, the time required for processing it resulted in a further backlog of new violations awaiting penalty assessment and caused time lapses in assessing penalties through most of 1971. As of February 18, 1972, the number of unassessed violations in the Assessment Office was down to 5,800. After January 1972 all violations were being assessed within 30 days of receipt by the Assessment Office. We were not furnished any documentation in support of the statement by the Chief of the Assessment Office. The 30-day processing time cited by the Chief is not comparable with the 129 days in our sample because the 30-day period does not include the time from the citation of the violation to the time of receipt of the violation citation by the Assessment Office. Because we completed our fieldwork in January 1972, we did not develop more recent information on the assessment of penalties.

From the time of its establishment in January 1971 through December 31, 1971, the Assessment Office referred 1,078 disputed assessment cases to the Solicitor's Office for hearings. As of December 31, 1971, 169 disputed cases comprising 3,400 violations awaited referral by the Assessment Office to the Solicitor's Office.

Our analysis of 50 cases¹ referred to the Solicitor's Office as of November 12, 1971, showed that the average time from the date of the mine operator's request for a hearing to the date the case was referred to the Solicitor was about 10 weeks, ranging from 2 to 31 weeks.

According to the Chief of the Assessment Office, primary efforts have been, and continue to be, directed toward assessment of penalties and attempts to collect penalties

¹The 50 cases represent cases randomly selected from the 674 cases the Bureau records showed had been referred to the Solicitor's Office as of November 12, 1971.

and refer cases for hearings have been secondary. He did not consider 10 weeks an excessive time for referring cases for hearings. The work in preparing a case for referral was generally of a routine nature and consisted of (1) assembling and duplicating all withdrawal orders, violation notices, abatement notices, and time extensions on the case, (2) preparing a form letter, one copy of which went to the mine operator and the other to the Solicitor's Office, and (3) checking to ensure that all required documents had been duplicated.

Adequate system needed to identify
delays and cases requiring action

Information to identify causes of delays in the penalty process was generally not readily available at Bureau headquarters, either because the information was not maintained or because the only source was several separately maintained records that were not always current or complete. Until information of this nature is available, responsibilities for delays and the specific corrective actions needed to expedite the assessment and collection of penalties cannot be readily determined at Bureau headquarters.

The previously mentioned average of 129 days for assessing violations involved action by several groups of people. Because data was not available at Bureau headquarters to show the time taken for correcting the violations, for processing violations in district offices, or for assessing penalties at the Assessment Office, the responsibilities for delays could not be determined.

A Bureau official advised us that statistics were being developed on violation correction time. According to this official, although there were no time standards for correcting violations, his office, on the basis of general knowledge, had advised certain field activities that times permitted for correction had been too liberal. The Chief of the Assessment Office stated in April 1972 that all violation citations were then being time stamped upon receipt. Such action would allow the Assessment Office to determine the time it took to assess a penalty.

Information to identify Assessment Office delay problems in processing disputed cases and cases requiring collection action (see chap. 5) was also not readily available. Under procedures established prior to October 1971, a time-consuming examination of several records was necessary to ascertain the status of each case and to determine the processing action required. Also, an official stated that the currency and completeness of the information contained on some of these records were questionable.

To correct these deficiencies, the Assessment Office implemented a new control system in October 1971, which provided for manually entering on one record all actions taken on each case from the date the violation citations were received from the mine health and safety district offices. This manual system included the individual status of disputed cases and collection cases assessed in October and subsequent months. The cases assessed before October were not initially included in the new system; however, by March 1972, according to the Chief of the Assessment Office, these cases were included in the system.

Data accumulation under the new manual system was an improvement because individual case status was identified on one record. However, a card file had to be used to locate a case in this record and another card file was maintained to identify the date and the type of action next required by the Assessment Office for each case.

The Chief of the Assessment Office stated in April 1972 that the new manual system had been redesigned to utilize only one control card for each case. A time-consuming examination of all case cards under the new manual system would be necessary to provide summary information which, we believe, is needed by management on a periodic basis--such information as the number and dollar amount of cases subject to collection, the number of cases in which hearings have been requested, the age of the cases requiring action, the timeliness of collection and referral actions taken, and the results achieved from various collection actions.

The Bureau established an automated system for processing data on the assessment actions taken by the Assessment Office. However, Assessment Office officials decided that

the system was not adequate for controlling the status of assessment cases and for providing summary information. Therefore during November 1971 the Bureau began revising the content and format of the system's output reports and included provisions for case status information. Because the revised system had not been fully developed at the completion of our review in January 1972, we were not able to evaluate its potential effectiveness in meeting management's needs.

AGENCY ACTION TO REDUCE INITIAL ASSESSMENT
BACKLOG, DECREASE THE PERCENTAGE OF
PENALTIES AMENDED, AND INCREASE
AMOUNTS OF PENALTIES

Certain actions were taken by the Assessment Office which resulted in eliminating the initial backlog of violations awaiting penalty assessment, decreasing the percentage of cases in which the penalties were reduced as a result of protests from mine operators, and increasing the average amounts of penalties assessed against mine operators.

Initial backlog of violations eliminated

Action was taken to eliminate the backlog of 39,000 violation citations that existed when the Assessment Office was established in January 1971. According to an official, the 39,000 violations had been processed by June 1971. Records show that no penalties were assessed for about 12,000 of these violations primarily because, when they occurred, the mine operators generally lacked equipment and technical personnel. Of the remaining violations, about 10,000 were assessed penalties in February 1971, about 13,000 in March 1971, and the balance later.

Reduction in percentage
of cases being amended

Beginning with cases assessed in May 1971, there was a significant decrease in the percentage of cases in which the penalties were reduced by the Assessment Office after consideration of protests submitted by the mine operators. We analyzed Bureau data on the 3,578 cases which had been assessed from February through September 1971 and found that most cases which had been amended were initially assessed from February through April 1971.

Bureau statistics of April 1, 1971, which were furnished to the Subcommittee by the Department, indicated that 94 percent of the cases assessed as of April 1, 1971, were amended. Analysis indicated that the percentage of cases amended decreased from 74 percent for the 901 cases initially assessed in March 1971 to about 19 percent for 1,760 cases initially assessed from May through September 1971.

Causes for the large number of protests and amendments concerning cases assessed from February through April 1971 cannot be definitely established because of a lack of documentation. Our review of protests and our discussions with Assessment Office officials indicated that the causes were in two general categories.

- During the early months when violations were first being cited, there was considerable confusion concerning the implementation of the provisions of the act on the part of both mine operators and Bureau inspection and assessment personnel. Assessment officials indicated that they considered this early period a learning period for the mine operators.
- Assessments for violations cited within the first year were based on a penalty schedule generally higher than those in effect when the violations had been cited, and assessments were generally higher than had been anticipated by the mine operators.

The Chief of the Assessment Office gave the following reasons for the continued protests on proposed assessment orders.

1. An operator's attorney wishes to raise a legal point on some matter which he feels the inspector has not considered.
2. The operator feels that he has a sufficiently good case to obtain a reduction in the proposed penalty.
3. The operator wants to avail himself of every opportunity to have his assessments reduced.

Penalty schedule problems resolved
and average penalty amount per
violation increasing

On January 16, 1971, the Secretary established a new schedule for assessing penalties under the act. The chief assessment officer informed us that an informal schedule was used for assessing violations cited by the mine inspectors before April 1, 1971. The informal schedule provided, in

general, for lower penalty amounts than the official schedule.

Analysis of penalty amounts initially assessed by the Assessment Office from February through November 1971 showed that the average assessment per violation issued (1) from February through July ranged from a low of about \$60 to a high of about \$160 and (2) from August through November ranged from a low of about \$265 to a high of about \$360.

In the absence of complete documentation, precise reasons for the increase in the average penalty amount could not be ascertained. We believe, however, that the change may be attributed primarily to the following factors.

- The assessments made during the earlier months were for violations cited before April 1, 1971, and were assessed at the lower rates contained in an informal penalty schedule. Violations cited on or after April 1 were assessed at the higher rates provided for in the official penalty schedule.
- According to the chief assessment officer, beginning with violations cited in April 1971, the past history of violations by the mine operators was taken into consideration; thus, later assessments for repeated violations showed increases in the penalty amounts.

HANDLING OF PROTESTS

The Assessment Office considers receipt of the protest within 30 calendar days after the date it mails the assessment to the mine operator as satisfying the requirement in the Department's regulations that a protest be made within 15 working days of receipt of the proposed assessment by the mine operator. Responses to assessment orders in the form of protests generally have been submitted by mine operators within the 30 calendar days.

Our review of a group of 50 protested cases¹ showed that the average response time, from date of assessment order to receipt of the protest in the Assessment Office, was 22 calendar days. Two of the protests exceeded the 30-day criteria, one taking 33 days and the other 38 days.

The Assessment Office had not rigidly adhered to the 30-calendar-day protest standard. It did not consider the delays for the two late protests above to be a basis for finalizing the proposed assessment order or to be a waiver of the mine operator's right to protest. In April 1972 the Chief of the Assessment Office advised us that he instructed his staff to adhere strictly to the 30-day standard.

In the sample of 50 cases previously mentioned, the time for reassessment of a case averaged 20 days, and 43 of the 50 cases were reassessed within 30 days. The chief assessment officer informed us that priority had been given to reassessing protested assessments even though there was no time limit prescribed for reassessment.

CONCLUSIONS

The processing of penalty assessment cases can be expedited through the development and use of a management control system which would readily identify cases requiring action by the Assessment Office and would provide the necessary information for identifying the causes of delays in the assessment process.

An Assessment Office official informed us in April 1972 that the automatic data processing system which the Bureau began revising in November 1971 was fully operational. However, at the time of our review, it had not been fully developed; therefore, we were not able to evaluate how it will meet management's needs.

¹The cases for this group were selected on a nonrandom basis from records which indicated that the cases had been reassessed because the penalties had been protested.

RECOMMENDATION TO THE
SECRETARY OF THE INTERIOR

We recommend that the Director, Office of Survey and Review, be given the responsibility to determine whether the revised management system is effective in meeting management's needs, after the system is in operation for a reasonable period.

CHAPTER 3DELAYS IN HEARING DISPUTED ASSESSMENTS

Significant delays in referring cases for hearings and in conducting hearings on penalty cases disputed by the mine operators resulted in a backlog of 1,062 cases, involving a total of \$2.8 million in assessments, as of December 31, 1971. The backlog consisted of 315 cases which the Assessment Office had referred to the Solicitor's Office but which had not been referred to the Hearings Office, 578 cases which the Solicitor's Office had referred to the Hearings Office but which had not been heard, and 169 cases in which requests for hearings had been received from mine operators but which had not been referred by the Assessment Office to the Solicitor's Office for action.

After a case is referred for a hearing by the Assessment Office, the Solicitor's Office is responsible for filing a petition, which lists the violations cited against the mine operator, with the Hearings Office. Hearings are conducted by hearings examiners following procedures prescribed by the Administrative Procedures Act (5 U.S.C. 554). A hearing consists of a formal review of all evidence related to the violation. The Solicitor's Office represents the Bureau in these hearings. Hearings can be deferred for such reasons as the hearings examiner's requiring mine operators and the Solicitor's Office to prepare and file prehearing briefs. Furthermore, mine operators can request continuances which delay the hearings process.

At December 31, 1971, 315 disputed cases had been referred to the Solicitor's Office but had not been filed for hearings. Our review of 50 cases¹ referred to the Solicitor's Office as of November 12, 1971, indicated that, as of November 30, 1971, 29 of the cases had been referred to the Hearings Office and 21 were still in the Solicitor's Office. The average time to file the 29 cases was over 3 weeks and

¹The 50 cases were randomly selected from the 674 cases the Bureau records showed had been referred to the Solicitor's Office as of November 12, 1971.

ranged from 1 day to 10 weeks. The 21 cases had been in the Solicitor's Office for an average of 5 weeks, as of November 30, 1971. There were 169 cases, in which mine operators had requested hearings, that had not been referred by the Assessment Office to the Solicitor's Office for action.

A Solicitor's Office official informed us that by mid-January 1972 penalty cases were being filed with the Hearings Office within a few days. This was the result of a change in Hearings Office rules which eliminated the requirement that the Solicitor's Office obtain and duplicate certain documents that were usually quite voluminous. He noted that penalty cases constituted only a portion of the Solicitor's Office's responsibilities in the mine safety area.

As of December 31, 1971, 763 penalty cases had been filed with the Hearings Office, about 350 of which were filed before November 1971. Penalty payments had been received from 143 operators after they filed for hearings. Apparently the notification to the operators of the filing led to payment in these cases, which indicates that timely filing of cases could hasten the collection of penalties in some cases. Also, 42 hearings had been conducted and seven decisions had been rendered by examiners from July to December 1971, and at December 31, 1971, hearings had not been held for the remaining 578 cases.

From July to December 1971, the Hearings Office resolved about 31 penalty cases a month. At this rate it would take over 2-1/2 years to resolve the 1,062 cases awaiting hearings at December 31, 1971.

In March 1972 the Director of the Hearings Office informed us of the following steps that had been or were being taken to improve the settlement of disputed mine cases.

- Changes in the regulations were under consideration which would (1) place the burden on the mine operators for initiating certain actions in the hearings process and (2) provide for holding hearings in nine designated cities. The Hearings Office believes that these changes will expedite disposition of the cases.

--Steps were being taken to hire four additional hearings examiners and to reassign one from another area. These steps would increase the number of hearings examiners in the penalty area from four to nine.

--Hearings examiners usually want the hearings transcripts before issuing decisions. Previously, the commercial court reporting services used required extensive periods of time to prepare hearings transcripts. The Hearings Office therefore inaugurated its own court reporting service which, these officials feel, will save time.

The planned increase in the number of hearings examiners and the resulting acceleration in the hearing of disputed mine penalty cases would have the effect of increasing the workload of the Solicitor's Office. An official informed us that an attorney would shortly be assigned to the coal mine health and safety area and that he had been given authority to hire one additional attorney for this area.

CONCLUSION

Changes in the regulations have been proposed which, the Hearings Office believes, will expedite disposition of the cases, and action is being taken to obtain more hearings examiners and attorneys for the processing of the sizable backlog of disputed penalty assessment cases. We believe that an evaluation should be made of the effectiveness of actions being taken to avoid a backlog.

RECOMMENDATION TO THE SECRETARY OF THE INTERIOR

We recommend that the Director, Office of Survey and Review, be given responsibility to evaluate the effectiveness of the actions, planned to achieve expeditious processing of cases, after they have been implemented for a reasonable period.

CHAPTER 4NEED FOR GUIDELINES AND DOCUMENTATIONIN CONSIDERING THE SIX FACTORS REQUIRED BY LAW

The Federal Coal Mine Health and Safety Act of 1969 specifies that the following six factors be taken into consideration in determining the amount of the penalty to be assessed for a violation.

1. The operator's history of previous violations.
2. The appropriateness of the penalty to the size of the operator's business.
3. Whether the operator was negligent.
4. The effect on the operator's ability to continue in business.
5. The gravity of the violation.
6. The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

Bureau officials stated that the six statutory factors were considered in making assessments. We noted, however, that (1) no written guidelines had been established to aid the assessors in considering the factors, (2) there was no documentation of the consideration given to each of the factors by the assessors, and (3) no such documentation was required.

We believe that written guidelines which define the factors and the consideration and weight to be applied to each would (1) assist the assessors in considering the factors, (2) help to provide uniform consideration of the six factors by the several assessors, and (3) facilitate evaluation of assessor performance.

GUIDELINES

The Bureau has not prepared guidelines for assessors to use in considering the factors for penalty assessment and in deciding how the factors should be weighted in determining the amount of the penalty within the ranges provided in the penalty schedule. Assessors relied on their personal judgment, their mining and inspection experience, and informal policy-setting conferences to define and weight these factors. The chief assessment officer informed us that, when inspectors were temporarily assigned as assessors, they were given an oral presentation concerning the assessment procedures and the consideration to be given to the six factors.

The official penalty schedule, established in January 1971 and used in assessing penalties for violations cited after April 1, 1971, provided for ranges in the dollar amounts of penalties to be assessed, depending on the gravity of the violations. For example, the penalty range for a nonserious violation was from \$25 to \$500.

A GAO sample of about 400 violations¹ assessed from April through December 1971 showed that about 50 percent of the penalties were assessed at the minimum amounts. Mines producing 2,000 tons, or more, of coal a day were cited for 50 of the violations at minimum amounts.

Because of the lack of any written guidelines defining the factors and describing the consideration and weight to be given each and the lack of documentation on the consideration given to each of the factors, we were unable to determine the adequacy of the consideration given to the six factors and the basis for the penalties assessed in these sample cases.

To assist the assessors in the consideration given to the six factors in determining the amounts of penalties to be assessed, guidelines are needed to define each of the

¹The violations were contained in 52 proposed assessment cases from 190 randomly selected cases in which the violations were dated April 1, 1971, and after.

factors and to describe how they are to be considered, as well as the weight to be given each factor. Such guidelines would assist (1) assessors in determining penalty amounts and (2) assessors, assigned to reassess disputed penalties, and supervisory personnel, assigned to review assessments, to understand how penalty amounts were determined.

Because the Bureau had not established guidelines for considering the six factors, the mine operators did not know how the factors should be considered and weighted in determining the amount of a penalty. Considering the significance of the dollar amounts of many penalties assessed and the inherent subjectivity in determining the amounts assessed, it appears reasonable that the mine operator should be advised of the guidelines used in assessing penalties.

In addition to submitting a written protest, a mine operator may request a meeting with an assessment officer to discuss his protest. We noted that a significant portion of an assessor's time was spent in such meetings. The chief assessment officer estimated that about 35 percent of the time of three assessment officers was spent meeting with mine operators. Records of these meetings were not maintained, and we could not identify the cases for which such meetings were held. If mine operators knew how the six factors were considered by the assessor, however, the need for these meetings and the number of protests could be reduced.

An official of the Solicitor's Office informed us early in April 1972 that he believed broad guidelines could be established on the basis of experience under the act and that his office was working on a response to a request from the Bureau for assistance in preparing guidelines. On April 21, 1972, the Solicitor's Office forwarded suggested guidelines to the Director, Bureau of Mines, for his consideration. A Bureau official informed us on May 24, 1972, that the suggested guidelines were being studied but that a decision had not been reached on their use.

INFORMATION IN PROPOSED ASSESSMENT ORDERS

The act requires a finding that a violation did occur and requires consideration of six factors in determining the amount of a penalty.

The Subcommittee requested our opinion on whether the findings of fact must include explanations of the consideration given to the six factors and whether the explanations must therefore be included in the proposed order of assessment sent to the mine operator.

Examination of the act and its legislative history did not disclose anything which might be helpful in answering the Subcommittee's questions. We are of the opinion that, in the absence of some indication of intention to the contrary, there is nothing in the wording of subsection 109 (a) (3) which would require a conclusion that explanations of the consideration given the six factors should be included in the findings of fact. The six factors are concerned with the amount of penalties, while the findings of fact are required to support findings of violations.

Accordingly, it is our view that, although the six factors must be considered, a description of how the factors were actually considered in determining a specific penalty does not have to be given in the proposed order of assessment sent to the mine operator. In view of the significance of the dollar amounts assessed and the inherent subjectivity in determining the amounts assessed, it appears reasonable that any guidelines developed for use in assessing penalties should be made available to mine operators.

DOCUMENTATION AND
REVIEW OF ASSESSMENT ACTION

Proposed orders of assessment should be reviewed on a test basis by Assessment Office officials to evaluate assessor performance. However, documentation on how the penalty amount was determined was inadequate. The assessment worksheets, the only documentation of the assessment action, listed only the health and safety standards violated and the dollar amounts of the initial assessment and the reassessment for each penalty. There was no documentation showing how or

whether the assessor considered (1) the six factors in arriving at the penalty amount or (2) the mine operator's protest when reassessing the case. In our opinion, such documentation is necessary for assessment officials to understand the reasoning behind an original assessment and to facilitate a management evaluation of an assessor's performance and of the overall assessment function.

In a case consisting of 54 violations, the mine operator, in protesting all violations, said that he considered the penalties too high, but he provided specific information on only four. The assessor reduced penalties for the four violations and also for 33 others, 31 of which were reduced 50 percent or more below the initial assessment amounts. There was no documentation showing the bases for the initial penalties or for the amounts of the reassessments.

CONCLUSIONS

The consideration of each factor could be improved through the issuance of guidelines defining each of the six factors and describing the consideration and weight that should be given each factor in determining the amount of a penalty. Adequate documentation should be required to show the consideration given each factor in assessing a penalty.

These guidelines should be made available to the mine operators so that they would better understand how the penalties were assessed.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

We recommend that the Director, Bureau of Mines, be required to:

- Issue guidelines defining each of the six factors, and describing the consideration and weight that should be given each determining the amount of a penalty.
- Make the guidelines available to mine operators.

--Provide for assessors to adequately document in the Bureau's files the consideration and weight given each factor in assessing a penalty.

CHAPTER 5NEED FOR MORE TIMELY AND EFFICIENTCOLLECTION ACTION

Delays in establishing collection procedures and in initiating collection actions resulted in a significant number of penalty assessment cases on which collection action had not been taken as of December 31, 1971, and in slow collection of penalties.

Although assessments of penalties began in February 1971, initial collection actions did not start until June 1971. Collection procedures to implement the Federal Claims Collection Act were not established until August 1971. Of the estimated 1,785 assessment cases as of November 30, 1971, which, on the basis of the Department's collection procedures, should have been acted on, no action had been taken on about 60 percent of the cases and, on the basis of a GAO sample, it appears that action on the remaining 40 percent had not been prompt.

The Bureau did not have an adequate management control system to readily identify cases requiring collection action.

DELAYS IN ESTABLISHING
COLLECTION PROCEDURES

The Assessment Office began assessing penalties in February 1971 and cases requiring collection action could have occurred as early as March 1971. Under Bureau procedures a collection action is required when a mine operator does not respond to an assessment order within 30 calendar days from its issuance. An Assessment Office official informed us that the first attempt to collect penalties was in June 1971.

The initial collection procedures established by the Bureau provided for sending one letter (if the mine operator had not responded to the proposed assessment order within 30 days) notifying the mine operator that the proposed assessment order was final and that payment was due. When this procedure did not result in the collection of the

penalty assessed, Bureau procedures required that the case be forwarded to the Solicitor's Office for collection by filing a petition for enforcement in a U.S. district court.

Officials of the Solicitor's Office stated that general penalty assessment procedures had been discussed with the Department of Justice but that specific collection procedures had not been coordinated during the initial planning. We were informed by an official of the Solicitor's Office that in July 1971, when first attempts were being made to effect collections through planned legal action, the Department of Justice first became aware of the Bureau's collection procedures.

In a letter to the Staff Associate to the Director of the Bureau, dated July 21, 1971, the Associate Solicitor stated:

"We have recently discussed procedures for the enforcement of civil penalties assessed by the Bureau with the Department of Justice ***. The Department of Justice has indicated that enforcement actions under Sec. 109(a)(4) of the Federal Coal Mine Health and Safety Act will be filed only after compliance with the Federal Claims Collection Act of 1966."

Collection procedures were issued by the Solicitor's Office on August 23, 1971, to comply with the Federal Claims Collection Act and the related regulations issued jointly by the Department of Justice and GAO in the Code of Federal Regulations (4 CFR 101).

The Department of the Interior's procedures provide for a personal contact attempt with the mine operator and for three demand letters at 30-day intervals in accordance with the requirements of the regulations. When these procedures do not result in the collection of the penalty assessed, the case is referred to the Solicitor's Office for forwarding to the Department of Justice for action in a U.S. district court.

The Subcommittee requested our opinion as to whether the Bureau can charge interest for late payment of civil

penalties by mine operators. The joint Department of Justice/GAO regulations (4 CFR 102.10) provide that prejudgment interest cannot be demanded or collected on civil penalty claims unless the statute under which the claim arises authorizes the collection of such interest.

Since the Federal Coal Mine Health and Safety Act of 1969 contains no such authorization, we must conclude that the Bureau cannot charge interest for late payment of civil penalties.

DELAYS IN COLLECTION ACTIONS

As of November 30, 1971, we estimate that there were about 1,785 assessment cases on which, on the basis of the Department's procedures, the Assessment Office should have been taking collection action. Bureau records indicated that as of December 31, 1971, some collection action had been taken on 718 cases, or about 40 percent. In the remaining 1,067 cases, no collection action had been taken. A GAO sample¹ of 50 of the 1,067 cases indicated that collection action was an average of 53 days overdue.

Bureau records indicated that as of December 31, 1971, payments had been received on only 74 of the 718 cases on which the Assessment Office had taken collection action. Payments had been received from 34 operators after the first demand letter, from 25 operators after the second letter, and from 15 operators after the third letter. We were informed by an Assessment Office official in late January 1972 that, for about 350 cases, the mine operators had been personally contacted, but that few payments had resulted.

Our examination of 30 of the 718 cases which were subject to the Federal Claims Collection Act showed that the initial demand letters were sent about 43 days after the required time.

The management control system used for identifying cases subject to collection action was not effective because, under the system (later revised), several records had to be reviewed to determine whether a case was subject to collection action. A Bureau official stated that the time and effort involved in reviewing several records were problems and that the currency and completeness of the recorded information were questionable.

The Bureau recognized that the system used to identify cases for collection action was inadequate. Therefore a revised system for controlling cases was established in October 1971. However, the cases assessed prior to October 1971 were

¹The 50 cases were randomly selected from the 1,067 cases in which the penalties were assessed subsequent to July 1971.

not initially included in the revised system. The Chief of the Assessment Office stated that by March 1972 these cases had been included in the revised system. The development of the revised management control system is discussed more fully beginning on page 13.

According to the Chief of the Assessment Office, primary efforts have been and continue to be directed toward assessment of penalties, and the Office's attempts to collect penalties and refer cases for hearings have been secondary. Emphasis was placed on assessment of penalties because it was important to establish to the mine operator the predictability that violation of a regulation would result in an assessment of a penalty. The Chief of the Assessment Office considered the fact that collection action had been taken on 40 percent of the cases was favorable under the circumstances.

In our opinion, timely collection action is as important as timely assessment of penalties. For penalties to be an effective compliance tool, a mine operator must know that, if a penalty assessment is not paid within the required time, it will be followed by timely and aggressive collection action.

Collection cases forwarded to Department of Justice

During February 1972 the Solicitor's Office forwarded the first group of collection cases to the Department of Justice for enforcement in a U.S. district court. We were informed by the Solicitor's Office and the Department of Justice that the Department of Justice had requested additional information on the need for the inclusion of a finding of fact in each case, as required by the act. As a result of an agreement reached by the two agencies, the Department of the Interior added to each case file a statement that the violations cited in the assessment order did, in fact, occur and that the assessed penalty was final.

A Department of Justice official informed us that the incorporation of the findings of fact in finalized cases was an attempt to rigidly adhere to the letter of the law and did not mean that the previous procedures were invalid.

As of April 10, 1972, 136 cases had been forwarded to the Department of Justice for collection action. We noted that the penalty amounts for 100 of these cases ranged from \$25 to \$5,125 and the amounts for 41 of these cases was under \$250.

The regulations issued to implement the Federal Claims Collection Act provide in the Code of Federal Regulations (4 CFR 105.6) that agencies will not refer claims of less than \$250 to the Department of Justice for litigation unless, among other things, referral to Justice is important to a significant enforcement policy. The Solicitor's Office believes that these cases are related to enforcement of the Federal Coal Mine Health and Safety Act of 1969.

APPLICABILITY OF FEDERAL CLAIMS
COLLECTION ACT PROCEDURES

The Federal Claims Collection Act of 1966 (31 U.S.C. 951) was designed to promote the more efficient and equitable collection of claims by the Government, by requiring the heads of agencies to attempt collection of all claims for money or property arising from activities of that agency. The act and its implementing standards further authorized such agency head to compromise, terminate, or suspend collection actions on claims not exceeding \$20,000, under certain conditions. These conditions are the inability of the debtor to pay, the inability to locate the debtor, the cost of collection action exceeding recovery, and the claim's being without legal merit or unsubstantiated by evidence. The act was also designed to reduce the amount of litigation previously required in the collection of claims and to reduce the volume of private relief legislation in the Congress.

In view of these purposes, the intention was that the Federal Claims Collection Act be given the widest possible application. It specifically exempts only such claims as those involving fraud or misrepresentation or those based on conduct in violation of the antitrust laws.

The Federal Claims Collection Act has been implemented by standards issued jointly by the Department of Justice and GAO (4 CFR 101). It should be noted that one section (4 CFR 102.6) specifically mentioned the collection of statutory penalties. The Federal Claims Collection Standards (4 CFR 101.4) states that the act does not intend to preclude agency disposition of any claim under other statutes. Section 101.4 cites, as an example, the Federal Medical Care Recovery Act (42 U.S.C. 2651), which contains specific provisions for the compromise, settlement, or waiver of claims. The Federal Coal Mine Health and Safety Act does not contain any such provision applicable to the civil penalties under the act. Therefore we must conclude that the Federal Claims Collection Act and implementing standards are applicable to the collection of civil penalties under the Federal Coal Mine Health and Safety Act.

Because of the joint responsibilities of our office and the Department of Justice under the Federal Claims Collection Act, we requested the views of that Department in the matter. In its reply dated March 24, 1972, the Department of Justice reached a conclusion similar to ours and stated, as follows:

"While we conclude that the Federal Claims Collection Act and its implementing regulations apply as a general matter to civil penalty claims, including those assessed under the mine safety statute, we do not suggest that referrals should be unduly delayed for a slavish adherence to all the detailed procedures prescribed in the joint regulations. See in this connection 4 CFR 101.2.¹

"The enforcement considerations involved are such that our Criminal Division does not expect compromise to be explored, for example, though many of the penalties assessed are so small as not to equal our costs of litigation, and thus have little deterrent value. The Assessment Officer, Bureau of Mines, advises that collections are made on in excess of 20% of the penalties assessed as a result of personal interviews. 'The personal interview is the vocal point of all good collection procedures.' Wallace, Starting and Managing a Small Credit Bureau and Collection Service (SBA 1959), page 135. Thus we would expect personal collection interviews to have been conducted in these cases to the extent feasible, particularly in cases where no hearings have been held and the mine operators, who frequently do not have retained counsel, may not have understood the significance of assessment notices. If this is done our Criminal Division is prepared to waive the formal demand procedures normally required under the joint regulations.

¹This section states that failure of an agency to comply with any provision of the regulations shall not be available as a defense to any debtor.

"Representatives of our Criminal Division will be glad to consult further with Interior representatives on harmonizing the application of the two Acts."

CONCLUSIONS

The Bureau needs to take more timely and efficient action to collect penalty assessments. Also the Bureau's management control system should be used to readily identify cases requiring collection action and to highlight areas needing management attention.

The Federal Claims Collection Act and implementing standards are applicable to the collection of civil penalties under the Federal Coal Mine Health and Safety Act; however, the Department of Justice and GAO agree that referrals of cases to the Department of Justice for court action should not be unduly delayed for rigid adherence to all the detailed procedures prescribed in the standards.

RECOMMENDATION TO THE SECRETARY OF THE INTERIOR

The Director, Bureau of Mines, should be required to give the same priority to collecting penalties as that given to assessing penalties.

CHAPTER 6ASSESSMENT OFFICE STAFFING AND ORGANIZATION

The Assessment Office was established in January 1971, but funds were not requested in the fiscal year 1971 budget for this office. In fiscal year 1972, seven assessor positions were authorized in an appropriation approved in August 1971 and five were authorized in an appropriation approved in December 1971. By December 31, 1971, the office had filled only four of the 12 permanent assessor positions authorized in fiscal year 1972 appropriations because of problems in attracting qualified personnel and because of manpower limitations imposed by the Civil Service Commission in August 1971.

The Assessment Office began developing plans in November 1971 to decentralize the assessment operation by establishing four field offices. Officials believed that they would be able to fill the vacant assessor positions by hiring mine inspectors who had been temporarily detailed to Washington, D.C., and who had functioned as assessors.

BUREAU ACTION TO OBTAIN STAFF

An official in the Bureau's personnel office stated that, during the latter half of fiscal year 1971, a specific number of personnel had not been authorized for the Assessment Office and that the assignment of temporary and detailed personnel had been handled on an informal basis. Only two or three assessment officers were assigned during the latter half of fiscal year 1971.

According to Bureau and Assessment Office officials, early efforts to obtain assessment officers were delayed by the lack of a civil service job description for the position and by problems in attracting personnel considered qualified by the Assessment Office. To supplement the staff of assessment officers, mine inspectors were temporarily detailed to the Assessment Office and functioned as assessors. These temporary details generally lasted for 30 days, and some inspectors had been assigned several times. Efforts to persuade these inspectors to permanently join the

Assessment Office were hindered, according to officials of the Bureau's personnel office, by the fact that the grade levels assigned to the positions of assessors were about the same as those of supervisory inspectors, and, therefore, there was not enough inducement for the inspectors to come to Washington, D.C.

The administrative and clerical staff consisted of permanent and temporary personnel. An Assessment Office official attributed the inability to hire additional permanent clerical staff to the low-grade structure initially allocated by the Bureau's personnel office for these positions. A Bureau official informed us that grade levels for the clerical positions were raised during December 1971.

During April 1971 the Bureau submitted an amendment to its fiscal year 1972 appropriation request, which listed the Assessment Office as a separate budget activity and which requested \$700,000 to provide for seven assessment officers, five technical advisors, four staff assistants, and 22 clerical positions, a total of 38 personnel. The Assessment Office consisted of two groups: the assessment group, which was responsible for assessing penalties, and the compliance assistance group, which was responsible for providing technical assistance to Bureau personnel and to mine operators. The appropriation was approved on August 10, 1971.

From July through September 1971, there were three assessment officers and numerous inspectors were detailed to the Assessment Office for duty as temporary assessors. The administrative and clerical employees gradually increased to about 13, including nine permanent employees. According to an Assessment Office official, efforts to obtain assessment and clerical employees were further hindered by limitations imposed by the Civil Service Commission in August 1971.

The Assessment Office had not filled the positions for which funds had been appropriated in August 1971 when, in October 1971, a supplemental appropriation request was submitted for \$250,000 to provide for five additional assessment employees and 14 support employees. The assessment employees were to be assigned to the field to conduct meetings on protests with mine operators at the local level.

The supplemental appropriation was approved on December 15, 1971.

During September and October the Assessment Office submitted three requests to the Bureau's director to obtain 23 additional employees. Approval was obtained from the director. Personnel office records indicated that 10 employees were permanently assigned during October through December 1971. As of December 31, 1971, the assessment group consisted of 18 permanent administrative and clerical employees and four permanent assessors.

PLANNED ESTABLISHMENT OF
FIELD ASSESSMENT OFFICES

In November 1971 the Assessment Office began developing plans to decentralize the assessment operation by establishing four field assessment offices, each to be staffed with assessment, clerical, and administrative employees who would be responsible for the entire penalty assessment and collection process for mines assigned to that office. The Assessment Office in Washington, D.C., would set policy for, maintain control over, and monitor the field office operations, and would handle assessment functions for mines not assigned to a field office.

The rationale given by Assessment Office officials for establishing the field offices included problems in attracting qualified assessment personnel to Washington, D.C., and the extensive travel time required by the assessment officers when conducting field seminars on the penalty section of the law. By locating the field offices in the coal mine areas, the Assessment Office believes that some of the inspectors acting as temporary assessors would agree to become permanent assessors and would be more readily available to educate mine operators in the various aspects of the act and to conduct meetings with mine operators to discuss their protests.

The documentation for the proposed decentralization of the organization was submitted by the Assessment Office to the Department for approval in January 1972. An Assessment Office official advised us that it might take about

6 months for all the required paperwork to be completed and approved. In April 1972 the Chief of the Assessment Office informed us that one field office was established on a pilot basis in Norton, Virginia.

CHAPTER 7SCOPE OF REVIEW

Our review was directed primarily toward examining into the actions taken by the Department of the Interior and its Bureau of Mines, its Office of Hearings and Appeals, and its Office of the Solicitor in administering the penalty provisions of the Federal Coal Mine Health and Safety Act of 1969. The review was conducted primarily at the Department's and the Bureau's headquarters offices in the Washington, D.C., area.

We reviewed the procedures for implementing the penalty provisions of the act and examined pertinent documents, reports, records, and files. We obtained information from the Bureau's computer file at Denver, Colorado, and interviewed Department and Bureau officials.

APPENDIX I

HENRY S. REUSS, WIS., CHAIRMAN
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225-6457

NINETY-SECOND CONGRESS
Congress of the United States
House of Representatives
CONSERVATION AND NATURAL RESOURCES SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM 5342-B
WASHINGTON, D.C. 20515

September 24, 1971

Mr. Elmer B. Staats
Comptroller General of the United States
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Staats:

This Subcommittee is conducting an investigation of a proposal of the Interior Department to hire a public relations firm to conduct "a full-scale, all-media education program" aimed at "motivating" coal miners to adopt safer working habits. In connection with this investigation, we asked the Interior Department to provide to us information concerning its practices and procedures for assessing and collecting civil penalties for violations of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173).

Enclosed for your information is a copy of our letter of July 9, 1971, to Secretary Morton and his reply of July 28, 1971. Also enclosed is a copy of our letter of January 29, 1971, to the Department, and Assistant Secretary Dole's reply of March 2, 1971, concerning the civil penalties regulations published on January 16, 1971 (36 F.R. 799).

I.

You will note from this correspondence that during the period of January 16, 1971 to April 1, 1971, the Bureau of Mines issued 1,526 proposed assessment orders. Of that number, all but six (1,520) proposed assessment orders were "protested" as provided under the regulations. Of the number protested, Secretary Morton states that 1,430 proposed assessments (i.e. over 94 percent) were "amended".

Thus, nearly all of these proposed assessments were "amended" after protest. In many cases, we understand that this is done through negotiations with those against whom the assessments were made or with their representatives. The Department's letter does not indicate whether the assessments were raised or lowered in each case. If the Bureau's practices and procedures for assessing penalties are carried out as required by the law and regulations, we cannot understand why over 94 percent of the assessments would be required to be "amended" on protest.

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Secretary Morton's letter of July 28 states that:

"The six factors required by law have been taken into consideration in arriving at all assessments both before and after April 1, 1971."

Enclosed is a copy of a memorandum dated June 8, 1971, from the Director of the Bureau of Mines to the Department's Office of Survey and Review which comments on the GAO report (B-170686) of May 13, 1971, to the Senate Subcommittee on Labor. You will note on page 5 of the memorandum the Director states that only "since April 1, 1971" has the Bureau's Assessment Officer taken these six statutory factors into consideration. We are concerned about this apparent discrepancy and, more importantly, the methods and procedures used by the Assessment Officer in applying these six statutory factors to each violation.

II.

A Bureau news release of September 16, 1971, states:

The Bureau, to the limit of its resources, has enforced the Federal Coal Mine Health and Safety Act rigorously and fairly. As of the beginning of September, 46,346 penalties, totalling more than \$6.3 million, had been proposed against mine operators for violations of the Act, and over \$800,000 of that amount had been paid.

We are concerned that only \$800,000 of assessments totalling \$6.3 million has been collected by the Bureau to date. On inquiry, we learned that only about 400 assessments are in various stages of appeal.

We understand that only three people have been assigned to the job of assessing and collecting civil penalties. We have been informed, however, that the Bureau estimated some time ago that at least fifteen people would be needed to do this work. We are concerned that the congressional objectives of the civil penalties provision of the 1969 law, which are to encourage compliance with the law and to achieve improved health and safety for the coal miners, will be defeated unless such penalties are assessed and collected expeditiously and efficiently.

We would appreciate your investigating the Department's administration and enforcement of the civil penalties provisions of the 1969 law and the regulations issued thereunder.

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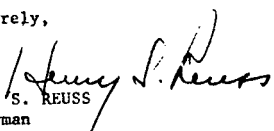
III.

We understand that the Department believes that the Federal Claims Collection Act of 1966 (31 U.S. Code 951-953) applies to the collection of civil penalties under the 1969 law. Under the 1966 law, the Department has instituted a lengthy collection procedure involving the sending of several collection letters before instituting judicial proceedings to collect the penalties. We would appreciate your advising us whether the 1966 claims law applies to these penalties. If you conclude that it does, please review the efficiency of the procedures utilized by the Department under that law to collect the penalties.

IV.

We request that the GAO provide to us a report of your findings and recommendations. We are most anxious to complete our investigation and report our findings to the House before the end of this session of Congress. We therefore would appreciate receiving your report by November 1, 1971. Since the General Accounting Office has already conducted extensive investigations of the Department's administration of the 1969 law, we trust you will be able to provide the report to us within that time. Before finalizing your report, we would appreciate your discussing your findings with our Subcommittee's staff.

Sincerely,



HENRY S. REUSS
Chairman
Conservation and Natural Resources
Subcommittee

Enclosures

Secretary DENT. And I would like to point out that in fact the GAO found that Mr. Failor's office, the Office of Compliance and Assessments, had eliminated a large 9-month backlog of violations awaiting penalty assessments, had decreased the percentage of cases in which penalties are reduced as a result of protests from mine operators, and had increased the amounts of penalties actually assessed. His performance at the Bureau of Mines earned him a special citation and a rating of outstanding from his superiors. The record indicates that these accolades were well earned and—

Chairman PROXMIRE. Well, this is a matter of difference of opinion. I would agree that everything you said is factual but my interpretation of the GAO report would be quite different. We will simply have to leave it to those who want to review the whole report to come to their own conclusions.

Secretary DENT. This is exactly it, Mr. Chairman. Those who want to make a judgment should have available the full facts and that is what I was trying to give them, the other side. I agree you have a right to make your judgment but those who select for this post also have their right of judgment.

Chairman PROXMIRE. That is right, and the only thing I dispute is whether we should have gone into all that material on the junior chamber of commerce and church, et cetera.

Let me ask something else. The figures the Census Bureau provides—

Secretary DENT. Excuse me. On that, Mr. Chairman, I think when we are dealing with people it is better to bend over a little bit too far backwards, than too little, so that nobody's character is reflected upon needlessly.

Chairman PROXMIRE. It is suggested to me that in your lengthy list of Mr. Failor's accomplishments, positions and jobs, and your attempt to give the full positions, you did not tell us that he was a lobbyist for the Iowa Association of Coin Operated Laundries.

Secretary DENT. Glad to have the record clear.

Chairman PROXMIRE. The same pertinence as his activity in the junior chamber of commerce.

The figures the Census Bureau provides on housing are very misleading. They are based almost entirely on whether the home has indoor plumbing if it is classified as substandard but if the unit is on the third floor and the bathroom is in the basement it is a standard unit. If there is inadequate heat, light, sleeping space, that is inadequate, it is a standard unit or if it is next to a chemical factory or city dump, no schools, no paved streets, no garbage collection, et cetera, it can be a standard unit if it has indoor plumbing.

Would you be willing to begin now to devise a much better measure of housing needs for use either in the mid-term census or through a special housing census, or at least for the 1980 census?

Secretary DENT. I would like to ask Mr. Hagan, who is a professional in the field, to respond to this, Mr. Chairman.

Chairman PROXMIRE. Mr. Hagan, go ahead.

Mr. HAGAN. Mr. Chairman, the obvious answer is yes, we are always willing to try to improve our techniques. In fact, there is a constant review of the total Federal agency complex, if you will, in the matter of obtaining the best possible definitions for the broad usage of our products.

This would include, of course, HUD and others who have an interest in this.

This is a very knotty problem, I might add, and one that—

Chairman PROXMIRE. It is a tough problem and it is hard to get objective criteria. I happen to be on the Banking Committee and Housing Subcommittee and also I am chairman of the subcommittee that handles the money for HUD, and one of the things that has been very difficult for us is the failure of the administration—this has been true for years—to come up with an adequate description of substandard housing so we can see what the job is, what we have to do and where we fall down. And I think neither this administration nor previous administrations have done that.

Mr. HAGAN. You are correct. This goes back perhaps 30 years in its difficulty in obtaining the kind of product that we need but there is constant attention given to the problem and, of course, we will pursue it.

Chairman PROXMIRE. Now, you were not Secretary when it happened, Secretary Dent, but at least on one occasion the housing figures which your Department compiles were announced by the Secretary, Secretary Romney, at a press conference before the 1 hour time limit was up. In fact, he may have done so the day before. In any case it was premature.

I gather you did the same, Secretary Dent, with export-import figures when they looked good. Is this not clearly against the rules and the OMB guidelines? Can we get your promise that in your Department you will not do it again?

Secretary DENT. Mr. Chairman, I would like to respond solely to that portion directed to me.

Chairman PROXMIRE. Yes.

Secretary DENT. As you say, I cannot respond for Mr. Romney.

Chairman PROXMIRE. Except that Mr. Romney was a Secretary. You occupy a similar position and I hope you would not do what he did.

Secretary DENT. He was at HUD. I certainly would not do it over there. But with respect to the trade figures you refer—

Chairman PROXMIRE. I do not know. The way this administration moves around you may be over there. We have to safeguard ourselves against that. I talked to Secretary Richardson last night and he has only been in four departments in the last few months.

Secretary DENT. You have given me encouragement for experience. But with respect to these trade figures, let me explain. These came up to my office at 3:30 p.m. on a Wednesday after the markets had closed, and they were scheduled for release on Friday. This was the Friday before the 3-day Memorial Day weekend. The Congress was scheduled to leave town Thursday afternoon.

It was my personal decision that it was in the interests of fairness and equity to get these figures out on Thursday in advance of the opening of any markets, knowing that this information could have a beneficial effect to those who might have gotten it in advance, and also wanting the Congress to have the information before they left Washington. The information was released 24 hours in advance, which is generally in keeping with permissible rules. We did release the comments on it too soon and I assure you that the 1-hour interval will be respected hereafter.

Chairman PROXMIRE. Well, the comment is what I was principally concerned with. Of course, the timing is also helpful if you had uniform timing at the same time, with no exceptions. The fact that the Congress—the House was here, the Senate was out at that time, I do not think that is relevant.

Secretary DENT. This was a significant piece of information after the major problems this Nation had been confronted with in regard to the trade deficits for the 18 months prior to that, and we felt it important that it be released so that no one could have advantage, so that the Congress would be fully informed before going home for the week's recess.

Representative CONABLE. Excuse me, Mr. Secretary. Are you suggesting you have some leak problems down there?

Secretary DENT. I do not think that we have experienced particular problems in that department, but I think, generally speaking, a person with responsibility does not want to run the risk of someone gaining advantage. Just general judgment.

Representative CONABLE. If that was the problem, of course, bad news could have been taken advantage of also and this is one of the—you know, by selling short, and so forth. That is one of the concerns that is involved in any violation of guidelines for whatever reason.

Secretary DENT. The guidelines are published, understood, and certainly will be followed.

Chairman PROXMIRE. Well, that is good to hear. That was my point.

Last night the President, of course, gave a very important and significant speech. One of the points he made, as I understand it, is that he would ask for export licensing authority. Is that in your jurisdiction? Will you be sending that to the Congress?

Secretary DENT. The control of exports when it is initiated is the responsibility of the Export Control Office of the Department of Commerce and we are beginning a system of monitoring exports of feed grains and are going to ask importers to have in our hands by June 20 a list of their present orders for export, and weekly thereafter to bring us up to date on new orders booked and on shipments, and we will have a record of the backlog of orders that exist in this country for off-shore shipment.

Now, this is merely an information-gathering procedure to date.

Chairman PROXMIRE. You are answering another question I had but let me pursue that question I was going to. Let me pursue that now and come back to the other one.

You say you are going to have regular reports on agricultural exports; is that correct?

Secretary DENT. No, sir.

Chairman PROXMIRE. Weekly reports?

Secretary DENT. Let me make clear—

Chairman PROXMIRE. All right.

Secretary DENT. The report which is to be in hand by June 20 is a report of all outstanding orders for exports of grain from the United States. It will detail the nation of destination as well as the month in which it is intended for shipment, and weekly thereafter we will get reports of shipments and of new orders booked.

Chairman PROXMIRE. Now, who will make those reports?

Secretary DENT. The exporters, the private exporters will submit—

Chairman PROXMIRE. They will report to you. You require that, the Department of Commerce.

Secretary DENT. Yes, sir; that is correct.

Chairman PROXMIRE. And then you will make those reports public?

Secretary DENT. No, sir. The law protects the confidentiality—

Chairman PROXMIRE. No, no. I do not mean that the individuals—I am talking about the aggregate figures.

Secretary DENT. The aggregate; yes, sir.

Chairman PROXMIRE. You will make public the aggregate figures.

Secretary DENT. That is correct.

Chairman PROXMIRE. And you will do that on a weekly basis?

Secretary DENT. I think it is under consideration whether weekly or biweekly. The reports are to come in weekly.

Chairman PROXMIRE. The reports themselves will not be made public. The aggregate figures will be made public.

Secretary DENT. That is correct.

Chairman PROXMIRE. And you have not decided yet whether this publicity will be on a weekly basis or monthly basis but you are in the process of determining that now.

Secretary DENT. That is correct.

Chairman PROXMIRE. Now, one other question that I had was with respect to the President's request for authority to license exports so that he could restrain the amount of exports in the event that the exports would deplete our limited resources and result in inflation here. As the President explained it, as I understand it, he felt the American consumer must be first, which all of us agree and, therefore, he wanted that authority so he could restrain exports that would have this undesirable effect, and I understood that was to come up today or tomorrow, very soon at any rate, the proposal from the administration.

Are you familiar with that? Would that be yours or would that be the Treasury Department?

Secretary DENT. No. The request for legislation will come from the White House.

Chairman PROXMIRE. Will come directly from the White House to the Congress?

Secretary DENT. That is correct. It is in the process of being prepared now.

Chairman PROXMIRE. What authority do you have under existing law to control exports?

Secretary DENT. We have authority under the Export Control Act to restrain exports in the national interest when there is a shortage, when it is creating exceptional inflationary pressures.

Chairman PROXMIRE. Well, why do you need new law? Why is that not adequate?

Secretary DENT. Because last year when restraint was placed upon the export of hides, the Congress reacted within 10 days, if I am not mistaken, to remove this restraint. Any export controls with respect to agricultural commodities must now come only after the Secretary of Agriculture has certified that in fact we do have a short supply in this country with respect to our needs.

Chairman PROXMIRE. Now, as I take it, this covers now only food products and farm products but all products, is that right?

Secretary DENT. That is correct. But the stipulation about the certification by the Secretary of Agriculture applies only to agricultural products.

Chairman PROXMIRE. I see. And then, the licensing would enable you to meet that problem so that you—you are not saying that you want to control exports without a certification of shortage, are you, or are you?

Secretary DENT. We are saying that we do not have authority to restrain agricultural exports at the present time unless the Secretary of Agriculture has certified that a short supply exists in this area.

Chairman PROXMIRE. And you want to be able to short circuit that so that you can make the determination without waiting for the Secretary of Agriculture to make such a finding, is that right?

Secretary DENT. The President is delineating authority in the agricultural area which, as I understand it, will be an amendment to the Economic Stabilization Act and action would be taken under that rather than under the Export Control Act.

Chairman PROXMIRE. In view of the fact that the Secretary of Agriculture is also the President's man, of course, and would cooperate with the President, I am sure, why is this necessary?

Secretary DENT. This was a stipulation established by the Congress last summer.

Chairman PROXMIRE. Well, all the Congress established is that the Secretary would have to determine whether there is a shortage, and what is wrong with that? Is he not the most competent person in the agricultural area?

Secretary DENT. The matter that we are dealing with involves the economic stabilization program of the country as well.

Chairman PROXMIRE. Why is not the Secretary of Agriculture still the man to find the facts in this area?

Secretary DENT. Rather than whom?

Chairman PROXMIRE. Rather than some other agent acting for the President. The President himself would not try to go out and find it. He would have to delegate it to somebody. He presumably would delegate it to somebody other than the Secretary of Agriculture. Otherwise he would use the present law.

Secretary DENT. The President is going to send this recommendation for revised export control authority under the Economic Stabilization Act up for congressional consideration and this is part of his overall economic program. It is different from the export control program. The Secretary of Commerce merely has the routine of regulating it, not establishing the controls on his own in the agricultural area.

Chairman PROXMIRE. Congressman Conable.

Representative CONABLE. Mr. Secretary, are they trying to broaden the authority? Is that the idea? Are they looking to the situation where even though there is no short supply, there is an economic impact because of high prices that is considered detrimental to the economy as a whole? Is that the intent?

I quite agree with the chairman that generally speaking, you would think there would be some reliance on the Secretary of Agriculture

to determine whether there was short supply but apparently at this point they want to go beyond that and consider economic impact irrespective of supply. Is that correct?

Secretary DENT. No. I do not for a minute think that we should believe that the Secretary of Agriculture is being dealt out of this circuit. He will be in it and certainly in all probability will make the major recommendation upon which Presidential action is subsequently taken.

Representative CONABLE. But he has the right to certify short supply and, therefore, to cut off exports now, and instead, this new Presidential recommendation seems to indicate that you will have the control of it hereafter, irrespective of the certification by the Secretary of Agriculture.

Secretary DENT. No. We control the mechanical aspects of administering an export control program. In the agricultural field this must be initiated, at present, with the concurrence of the Secretary of Agriculture. The significant thing today is that we do not have available in this country knowledge of how much has been sold overseas and the monitoring system which is being established will enable us to determine how much has been committed to overseas customers. Additionally, of course, the Department of Agriculture monthly brings out its estimates of production. We know what is available in the country, add the production, subtract this monitoring base, and then we establish a knowledge base upon which these judgments can be made.

Representative CONABLE. So your responsibility will be to determine the amount of actual export regardless of supply. It is to set up an additional information-gathering process here related entirely to exports. I assume this is a response to criticism that we were caught short on the amount of export to Russia. Whether that was justified or not, there was a good deal of talk about it. And so, apparently the intention is to set up a process of information-gathering with respect to exports only and the impact on supply, and with respect to a process then of possibly controlling those exports within the jurisdiction of your Department. Is that correct?

Secretary DENT. That is correct. Hopefully, we will not have to control exports, but we are going to establish a knowledge base upon which wise decisions can be made in behalf of the American people whether this is necessary. If it is determined to be necessary, the actual administration of the program will be the responsibility of the Department of Commerce. How the exports will be allocated on a quota basis would have to be determined subsequently.

Representative CONABLE. I see. We are dealing with the mechanism. In other words, up until this time we have had only the process of certification by the Secretary of Agriculture. It was the sole process and unrelated to the impact of exports on the total condition.

Secretary DENT. The really significant task, though is building this base of information on exactly where we stand so that we do not depend upon innuendo. You see, our exports are all booked through private export firms. They can go out and sell a year or two of crops before we know it. Obviously, they have not done it. We have never suffered, but without the great reserves that we once had, it is sound business for the American public to have a knowledge base.

Representative CONABLE. I understand. That is all, Mr. Chairman.

Chairman PROXMIRE. Mr. Dent, would you describe the Department of Commerce's Broadcast News Service?

Secretary DENT. The Department of Commerce as well as other agencies certainly has an important requirement to communicate with the public as far as its activities are concerned.

Chairman PROXMIRE. What is the purpose of the recorded announcements?

Secretary DENT. The purpose is to inform the general public concerning the activities of the Department of Commerce.

Chairman PROXMIRE. When you do this, to disseminate statistical information, does the Department of Commerce follow the rule of waiting an hour between release of this statistical information and comments by political figures?

Secretary DENT. Yes, sir.

Chairman PROXMIRE. Do you follow that rule? I have the transcript of a recording which was available to reporters on March 16 but was not released until 6:30 p.m., March 18. This recording has a 26-second statistical release followed immediately by a 39-second political commentary which plugs President Nixon's 1974 budget and warns that "There will be a 15-percent increase in income taxes," if Government spending is not restricted. I have the transcript of several other recordings where statistical information is accompanied by political commentary warning about possible tax increases if the President's proposals are not adopted.

Do you feel this is in keeping with the practice of separate release of statistical data from political commentary?

Secretary DENT. I am not familiar with those specific ones. The release of information is done at the Department in writing.

Now, I do not know whether you are referring to a broadcast on the day of initial release, or whether it was put into a single statement that might have come out after that hour separation.

Chairman PROXMIRE. I have the transcript here. It starts off:

Two items today, March 16: First, More women in the United States are becoming breadwinners in their families;

Gone are the days when "good old dad" was the chief and only provider of the American family.

And then immediately goes on to say:

Of the 44 million husband-wife families counted in the last census, wives brought home the main income in over three million families, or more than seven percent of the total. In the previous census this figure was only about 4½ percent.

The commentary on the proceeding by Assistant Secretary Henry Turner runs 39 seconds and begins in 3 seconds:

A growing number of American wives are the chief bread winners of their families. The Census Bureau just issued a report on this subject * * *.

Many of the ladies explained they are trying to win the battle of the family budget. Winning the battle of the budget is also one of the problems that President Nixon faces but on a decidedly bigger scale. In his message on the 1974 budget President Nixon warns if Government spending is not restricted, there will be a 15 percent increase in income taxes. That is really a slice of the bread winner's loaf.

Do you recall that?

Secretary DENT. I do not recall it; no, sir.

Chairman PROXMIRE. What do you think of that as I read it to you? Do you not think that represents a conspicuous political plug? Talk about political plugola, that is it, tied right into an announcement and the timing of it, of course, is one question and the content and partisanship of it is something else.

Secretary DENT. The restriction requires a 1-hour separation between release of statistics and any commentary on them. If it came after the original release it is in keeping with that.

Coming to work this morning I heard Senator Hubert Humphrey commenting on the President's remarks last night on the budget and he said he was too liberal—that Mr. Humphrey was for even less expenditures than the President had expected—so maybe from a political standpoint that was not strong enough.

Chairman PROXMIRE. Well, it is a matter of using—

Secretary DENT. Mr. Turner is here, if you would like a comment.

Chairman PROXMIRE. May I say that that is a little different. I commented also on the program last night. I thought it was good and I applauded it. But that was a little different than using public facilities paid for by the taxpayer to push the President and the President's program, the President's viewpoint.

Mr. TURNER. Mr. Chairman, those comments were recorded for what is called a Spotmaster Service. It is not an uncommon thing and I think maybe the chairman is a familiar with it. It was done in conjunction with a speech that was given that day and there were no statistics given in that comment that related to a timing violation as the Secretary has already commented to you.

I think if you will check the record you will find that is correct.

Representative CONABLE. In other words, the statistics were not being released at that point. They had been released earlier and this did not relate to any timing issue, then.

Mr. TURNER. There was no timing issue involved in this at all. It was excerpted from a speech that was given later that day by another Assistant Secretary in the Commerce Department.

Chairman PROXMIRE. Well, I think I am getting a clearer picture, then, from what you tell us but I have other transcripts here, too, that are releasing data, statistical data, and they are immediately followed by obviously partisan political commentary using the same public facilities paid for by the taxpayers.

Secretary DENT. Mr. Chairman, the statistics are not released initially by radio. The statistics are released in a written press release. We have a newsroom available for those reporters who wish to come down and get it. The comments which come on the radio are not part of the original release of information to the public.

Chairman PROXMIRE. Well, what I am concerned about, and I agree—what gets me is I agree with President Nixon's desire to hold down spending. I think that he is right and I have said that many, many times and I have also indicated that I think we should have an even lower ceiling, in fact, much lower than Hubert Humphrey wants.

But at any rate, the end of this public facilities broadcast is as follows:

President Nixon is now warning all of us that we may be paying 15 percent more in Federal taxes unless the Nation adopts his present budget and holds the line on spending.

Now, I just wonder if it is a proper thing for the Department of Commerce to do in this connection. President Nixon's 1974 budget trims overlapping Federal activity in an effort to hold down taxes. The President has warned:

If we do not restrain spending and if my recommended cuts are reversed, it would take a 15-percent increase in income taxes to pay for the additional expenditures.

What I am saying, I think, is by having the Department of Commerce's statistical arm giving in the first place statistical information of great value to all of us and then ending up with a political plug for an elected figure, it seems to me that demeans it and it takes advantage of public facilities to advance the political interests of the President and his associates.

Secretary DENT. Mr. Chairman, I think that we should differentiate very carefully here in the use of the Public Affairs Office in promulgating information and its total divorce from the statistical release system. The statistical release system is set by precedent in an OMB circular letter and these releases to which you refer are not the original releases of information. As I have mentioned, they all come in a written press release.

Chairman PROXMIRE. I understand that.

Representative CONABLE. Mr. Secretary, I am sure you will take a look at this stuff and be sure that any release going out of the Department is appropriate to a Government agency.

Chairman PROXMIRE. Let me interrupt just once more. I agree with that. The point is that the public information services are also being used, it seems on the basis of investigation, as conspicuous examples for partisan purposes, which is against the law.

Secretary DENT. Mr. Chairman, the state of our economy is not partisan. The man to whom you refer can no longer run for office. Whether we run a deficit in our domestic budget is of serious concern to our Department. The fact that we have had a deficit in years gone by, as you fully appreciate, and as we have called to the public's attention, is one of the major causes of our great inflationary problem.

Chairman PROXMIRE. I would like to see just one of these releases saying both President Nixon and the Democratic Congress agree we should hold down spending. We are working together on it and we hope you support both of us, both Democrats and Republicans. We agree on this. The only difference is on the priorities. The President thinks we should emphasize defense spending more and he may well be right and some of the rest of us think we should emphasize other kinds of spending more, but to say President Nixon believes we should hold all spending down, there are very clear implications that the big bad Democratic Congress is going to impose a 15-percent increase in your taxes.

In the first place, that is a phony, completely wrong. In the second place, even if it were right it would take advantage of public facilities and using millions of dollars of the taxpayers' money to advance the interests of the President's political position.

Secretary DENT. We will certainly review these carefully.

Chairman PROXMIRE. I hope you do. You see, if a little radio station out in the country gets this—it is one thing for the big radio networks. They can undoubtedly separate it.

Secretary DENT. They do.

Chairman PROXMIRE. But the radio stations out in the country are much more likely to run it together. That is the way they normally would operate. And if they are going to provide information to the public they are not in a very good position to decide, well we will cut off the remainder of this message or give the whole thing.

Secretary DENT. Any use of this information, incidentally, is totally voluntary. The station calls in and has an opportunity to use it and it can be screened out at word one if they wish.

Chairman PROXMIRE. We hope that this information, the first part of this information is used very widely. We want to encourage it. And it is a great service on the part of radio stations to do that and they are always anxious to do services for many reasons but if this is tied in—sure, it is voluntary, but after all, it is put in a very clever way so that in many cases they will use it unthinkingly. I am sure that a very strong critic of the President would be unlikely to use it but most people—most radio stations try to be as fair as they can—use what comes along without developing any kind of emotional fix one way or the other.

Representative CONABLE. Mr. Chairman, there are two issues here. One is, of course, there is an issuance of statistics here and an editorial comment from a public official following that. I think the Secretary has answered that.

The second issue, of course, is if it is appropriate for this kind of commentary to be put out as an official Department release as part of the information service and that is something, as I understand it, the Secretary said he will review and be sure it is fair.

Chairman PROXMIRE. When you review that, will you do this, because I have faith in your integrity and I know you will do your best on it, but we are all busy people and you are very busy. Would you make a point when you review your remarks to let us know whether you are going to continue the program, whether you are going to separate it, whether you are going to change it, so that we have some satisfaction? There is a tendency when all of us say review, and I am not trying to be critical of you, when all of us say review, well, that is it, and then we go on to something else and everybody will forget it.

We would like to know what has happened on this and I would appreciate it very much if you would, either when you correct your remarks or within the next week, write me as chairman of this subcommittee and tell me what your decision has been. Will you do that?

Secretary DENT. Mr. Chairman, let me make—

Chairman PROXMIRE. Will you do that, Mr. Secretary?

Secretary DENT [continuing]. One thing clear in the record. First of all, all of these are legal. They have been scrutinized by the General Counsel of the Department.

Second, let me assure you that if we tell the chairman of this subcommittee, that we will review it, you can be sure we will review it. We will not take it lightly.

Chairman PROXMIRE. Well, review it and let me know and also give me the opinion of your counsel in writing so that we have the basis for his judgment that this is legal because there is apparently a difference of opinion here. The staff tells me the transcribed reports from your Department are not legal.

Representative CONABLE. Mr. Chairman, if we are going to do this, let us make it fairly specific.

Chairman PROXMIRE. We will be happy to provide you with this particular transcript.

Secretary DENT. Mr. Chairman, is the staff qualified as far as lawyers are concerned?

Representative CONABLE. Sure. Well, he is asking you to do it.

Secretary DENT. Yes, we certainly will.

Representative CONABLE. There are some specific issues we would like you to review relating to your Department's policy on it.

Secretary DENT. Be glad to.

[The following information was subsequently supplied for the record:]

DEPARTMENT OF COMMERCE,
Washington, D.C., June 22, 1973.

HON. WILLIAM PROXMIRE,

Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: When Secretary Dent appeared before your committee last week on the subject of statistical programs, you requested that a review be made of the Department's broadcast services. More specifically, you asked to be informed as to whether we were going to continue the program in its present form, or make changes to it.

Last December, our Office of Organization and Management Systems completed an extensive review of the activities of the Department's Office of Public Affairs, which has responsibility for the broadcast services. The objective of this study was to suggest ways to strengthen and improve our public affairs activities to better serve both the public interest and internal Departmental management.

As a result of this study, we are in the process of making several changes in our public affairs activities. For example, we will now conduct annual reviews of the performance of each of the Department's public information offices; our information mailing and distribution system is being modernized; and a manual of standardized public affairs policies, procedures and services is being developed. The study also recommended that the "spot-master" service, to which you referred, be technically improved, more effectively planned, and regularly evaluated. We are now in the process of determining how best to implement these recommendations.

You also alluded to transcripts in the Subcommittee's possession of certain spot news releases via the Department's Broadcast News Service, in particular those of March 16, 22 and 23, 1973, and requested an opinion concerning the legality of editorial commentary therein. An opinion of our Acting General Council concerning the commentary in question is enclosed.

Thank you for this opportunity to supplement the hearing record.

Very truly yours,

HENRY B. TURNER,
Assistant Secretary for Administration.

Enclosure.

DEPARTMENT OF COMMERCE,
Washington, D.C., June 22, 1973.

MEMORANDUM OF LAW

In the course of Secretary Dent's testimony concerning Federal statistical services before the Joint Economic Committee's Subcommittee on Priorities and Economy in the Government on June 14, 1973, Chairman Proxmire alluded to the texts of certain spot news announcements released via the Department of Commerce's Broadcast News Service.

The Chairman read into the Record a release, dated March 16, 1973, covering newly developed economic statistics about working wives and a related commentary on the data. Chairman Proxmire also referred to two other Broadcast News Service announcements (March 22 and 23) which furnished other statistical information and concluded, respectively, with commentary quoted by the Chairman in the Record.

Subsequently, Chairman Proxmire, after further discussion with Secretary Dent on the subject, asked for the opinion of Department counsel concerning legality of the cited commentaries.

I have carefully reviewed the laws which may have applicability, as well as relevant opinions and other materials in which they have been considered. The statutes are 18 U.S.C. 1913; section 608(a) of Public Law 92-351 (the 1973 fiscal year Appropriation Act for Treasury, U.S. Postal Service and other agencies); and section 701 of Public Law 92-544 (the State, Justice and Commerce Appropriation Act for fiscal 1973).

I do not find the statements contained in the cited Broadcast News Service announcements to be contrary to the requirements of those statutes.

18 U.S.C. 1913 prohibits, in essence, appropriated moneys from being used directly or indirectly by a Federal official in a manner intended or designed to influence a member of Congress to favor or oppose any particular legislation or an appropriation, except through proper official channels. The jurisdictional elements of intent to influence a member of Congress with respect to a given bill are absent, and therefore, I see no basis for any contention that these Broadcast News Service announcements violated that law.

Section 608(a) of Public Law 92-351 is slightly broader in scope than 18 U.S.C. 1913. It states that no appropriated moneys "shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." To contravene this mandate, a particular activity must not only be for publicity or propaganda purposes, but designed to support or defeat pending legislation. To have any substantive and practical meaning, the term "legislation" must be construed as referring to *specific* pieces of legislation or parts hereof under consideration by Congress. None of the commentaries cited above refers to specific legislative items. References in these commentaries to the President's 1974 budget adoption of his budget, the need for restricting Government spending, and recommended cuts in spending are statements so general in nature that they cannot fairly be construed as efforts to sway the Congress with respect to pending legislation. As Secretary Dent noted, each was a statement of concern about the deficits in our domestic budget and the national economy, and a matter within the Department's province to comment upon for public information. I find no violation of section 608(a).

Finally, I do not believe that the commentaries in question involved use of appropriated funds "for publicity or propaganda purposes not authorized by the Congress," contrary to section 701 of Public Law 92-544. Unquestionably, publicity and propaganda are difficult terms to define. However, the Comptroller General has held that this prohibitory language (as it appeared in an antecedent statute) was intended to prevent publicity of a nature tending to emphasize the importance of the agency or activity in question (31 Comp. Gen. 311 (1952)). This clearly was neither the intent nor the effect of the commentaries in question.

KARL E. BAKKE,
Acting General Counsel.

Chairman PROXMIRE. As far as the qualifications of our staff are concerned, we do have lawyers on our staff, although they are primarily economists, but there are many instances where it does not take a lawyer. Another person may make a judgment as good or better than a lawyer. When you are violating a particular law, when you have such a clear prima facie case, there is no question about it.

Mr. Secretary, I want to thank you very much. It is unfortunate that we did have a little difficulty this morning but you were very helpful to us and we want to thank you and the distinguished gentleman who are with you for your testimony.

Secretary DENT. Thank you, Mr. Chairman.

Chairman PROXMIRE. The subcommittee will stand adjourned.

[Whereupon, at 12 noon, the subcommittee adjourned, subject to the call of the Chair.]

